

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

HONORABLE JULIAN ABELE COOK, JR.

No. 11-20677

LATOYA PERRY,

Defendant.

\_\_\_\_\_ /

SENTENCING HEARING

Friday, March 7, 2014

Appearances:

FOR THE GOVERNMENT:

MICHAEL MARTIN, ESQ.

FOR THE DEFENDANT:

LISA DWYER, ESQ.

- - -

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1 Detroit, Michigan  
2 Friday, March 7, 2014  
3 1:00 p.m.

4 - - -

5 **THE COURT CLERK:** The court calls case number  
6 11-CR-20677, United States of America versus Latoya Perry.

7 **THE COURT:** Good morning.

8 **MR. MARTIN:** Good morning, your Honor.  
9 Michael Martin for the Government.

10 **MS. DWYER:** Good morning, your Honor. Lisa  
11 Dwyer on behalf of Latoya Perry.

12 **THE COURT:** Today is the date that has been  
13 scheduled by the Court for the imposition of a sentence  
14 upon the defendant, Latoya Perry. Before we get into some  
15 other matters I want to take care of some housekeeping  
16 matters first.

17 I want to acknowledge my receipt of certain  
18 documents that I will or may rely upon before imposing a  
19 sentence upon Ms. Perry. The first is the Presentence  
20 Investigation Report. Let me ask each counsel if either  
21 of you have received a copy of the Presentence  
22 Investigation Report?

23 **MR. MARTIN:** The government has received a  
24 copy, your Honor.

25 **MS. DWYER:** As has the defense.

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1                   **THE COURT:** Let me speak to both counsel.  
2     Based upon your reading of the Presentence Investigation  
3     Report, are there any corrections or modifications to that  
4     report that in your judgment will be necessary before I  
5     impose a sentence upon Ms. Perry?

6                   **MR. MARTIN:** None from the Government.

7                   **MS. DWYER:** None, your Honor.

8                   **THE COURT:** All right. I have received a  
9     number of letters from Ms. Perry, all of which have been  
10    ostensibly written by her and presumably addressed to me.  
11    At my request, Ms. Doaks, my case manager has reproduced  
12    these letters and forwarded them to you. I want to know  
13    if you have received copies of Ms. Perry's letters. Many  
14    of them lack a date so I cannot define a particular date  
15    when the letters were sent or received.

16                  **MR. MARTIN:** I think the Government has  
17    received them all. Of course, I don't know exactly what  
18    has been sent to your Honor. If I don't have any, I would  
19    waive my interest in seeing them so we could proceed  
20    today.

21                  **MS. DWYER:** Similarly, I believe I have them  
22    all because the Court has been very good about getting me  
23    copies.

24                  **THE COURT:** Do either counsel wish to look at  
25    these letters before I proceed?

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1                   **MR. MARTIN:** No, sir.

2                   **MS. DWYER:** No, sir.

3                   **THE COURT:** Just a few minutes ago I received  
4 documents that presumably were initiated by Ms. Perry.  
5 Facially it appears that Ms. Perry has been complaining  
6 about certain problems at the prison where she is right  
7 now. I have not looked at them. But I want to share them  
8 with Ms. Perry's counsel before I reproduce them and  
9 forward them to Mr. Martin because I want to avoid the  
10 possibility that there may be some incriminating  
11 information in there. Have you received these letters?

12                   **MS. DWYER:** Yes, your Honor.

13                   **THE COURT:** Have you had an opportunity to  
14 examine them?

15                   **MS. DWYER:** I have.

16                   **THE COURT:** Is there anything in your opinion  
17 that would arguably prejudice your client as it relates to  
18 this case?

19                   **MS. DWYER:** I would say yes.

20                   **THE COURT:** I think it would be imperative  
21 before I share these with Mr. Martin that I get from you  
22 some --

23                   **MS. DWYER:** -- record?

24                   **THE COURT:** Record, right.

25                   **MS. DWYER:** As an offer of proof, your Honor,

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1 I would say that overall, it is more of what we have seen.  
2 However, there appear to be -- there is a discussion about  
3 an incident at the jail that may have criminal  
4 implications. I don't know. But she makes some  
5 statements that regard an accusation that was made against  
6 her. And I hesitate to share them with the Government in  
7 case that becomes or is used against her in some future  
8 prosecution. I don't expect that to happen. I really  
9 don't. I don't expect that to happen. But I don't know  
10 how aggressive the Prosecutor would be about forcing the  
11 issue.

12 **THE COURT:** I want to make certain that any  
13 correspondence from Ms. Perry directed to me are made  
14 available to the Government counsel. And so that is why I  
15 am speaking to you about this packet of letters.

16 **MR. MARTIN:** Your Honor, perhaps maybe if  
17 defense counsel is in agreement perhaps you could just,  
18 for purposes of the sentencing today, disregard or not  
19 consider that particular letter. So therefore you  
20 wouldn't need to share it with the Government if it's not  
21 going to be a factor in your sentencing.

22 **THE COURT:** Actually, there is more than one  
23 letter. But if you find Mr. Martin's suggestion to be  
24 acceptable, then I will disregard that. But knowing  
25 Mr. Martin, that if you desire, it is here. And clearly I

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1 have not been and will not be adversely affected by the  
2 content of Ms. Perry's letter. Do you believe that there  
3 is anything that I should read and convey to Mr. Martin  
4 that would have some positive affect before Ms. Perry's  
5 sentence today?

6 **MS. DWYER:** Your Honor, I believe that for  
7 the most part these letters are, not more of the same, but  
8 consistent with her pattern letters where she is, you  
9 know, paranoid perhaps, a little delusional perhaps. I  
10 think she perhaps is a little histrionic. However, we  
11 have plenty of that evidence as a basis from her previous  
12 letters. So these letters do not have to be considered.  
13 And I don't think there is anything in here that must be  
14 shared with Mr. Martin to assist him with his preparation  
15 for sentencing. Is that the right answer?

16 **THE COURT:** I suppose so. I just simply want  
17 to make certain that I am not the recipient of any  
18 communications from anyone who has an interest in this  
19 case. And no one can have a greater interest in this case  
20 than Ms. Perry.

21 **MS. DWYER:** That's right.

22 **THE COURT:** But I want to make it known to  
23 everyone that I have received these documents. I have not  
24 read them so I am not influenced by the content. But if  
25 the Government through Mr. Martin believes that he as a

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1 counsel for the Government should examine them, I will  
2 then defer that decision to you.

3 **MR. MARTIN:** I do not believe -- I do not  
4 have an interest in examining them if the Court is not  
5 examining them or considering them as part of this  
6 hearing.

7 **MS. DWYER:** I accept that.

8 **THE COURT:** All right. I will put those  
9 letters from Ms. Perry aside. But I want to acknowledge  
10 my receipt of these letters from Ms. Perry.

11 I have also received a Sentencing Memorandum from  
12 the Government as well as a document entitled, quote,  
13 Government's Supplemental Sentencing Memorandum. Has  
14 everyone received copies of the Sentencing Memorandum from  
15 the Government as well as the Government's Supplemental  
16 Sentencing Memorandum?

17 **MS. DWYER:** Yes, your Honor.

18 **THE DEFENDANT:** Yes, your Honor.

19 **THE COURT:** All right. Mr. Martin, have you  
20 received a copy of Ms. Dwyer's Sentencing Memorandum?

21 **MR. MARTIN:** Yes, sir.

22 **THE COURT:** Are there any documents that in  
23 the opinion of the respective counsel that I have not  
24 identified today and believe that I should take them into  
25 consideration before I impose a sentence?



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1                   **MS. DWYER:** Your Honor, have you had an  
2 opportunity to review Doctor Wendt's report?

3                   **THE COURT:** The answer is yes and yes.

4                   **MS. DWYER:** As well as the Government's  
5 Doctor, Doctor Johnson.

6                   **THE COURT:** Yes.

7                   **MS. DWYER:** Okay. Thank you.

8                   **THE COURT:** Mr. Martin?

9                   **MR. MARTIN:** Beside those two reports, I have  
10 nothing.

11                   **THE COURT:** All right. Is it my  
12 understanding that either or both of these men who just  
13 mentioned are expected to testify today.

14                   **MS. DWYER:** Mr. Wendt, Doctor Wendt, excuse  
15 me, is going to testify.

16                   **MR. MARTIN:** And Doctor Johnson who is a  
17 female, your Honor, she is not. She is located in  
18 California so she is not here today.

19                   **THE COURT:** All right. Ms. Dwyer, the report  
20 that I read from Doctor Wendt is dated July 3, 2013. Is  
21 that the report that I should rely upon?

22                   **MS. DWYER:** Yes, your Honor.

23                   **THE COURT:** Any other medical reports or  
24 reports from Doctor Wendt?

25                   **MS. DWYER:** Nothing, your Honor.

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1                   **THE COURT:** For scheduling purposes, do you  
2 have an estimation as to how long his testimony will take?

3                   **MS. DWYER:** It will not take more than an  
4 hour, your Honor.

5                   **THE COURT:** All right. With that in mind, do  
6 either counsel have an objection to any content within the  
7 Presentence Investigation Report?

8                   **MR. MARTIN:** No, sir.

9                   **MS. DWYER:** No, sir.

10                  **THE COURT:** Ms. Dwyer, I would ask your  
11 client to examine pages eight.

12                  **MS. DWYER:** Your Honor, page eight of which  
13 document, please?

14                  **THE COURT:** I'm sorry. Presentence  
15 Investigation Report. Pages eight through and including  
16 twenty of the Presentence Investigation Report and, more  
17 specifically, to paragraphs 29 through and including 68.  
18 The pages to which I have made reference and the  
19 paragraphs to which I have made reference constitute the  
20 Probation Department's compilation of the adult criminal  
21 convictions relating to Ms. Perry. And the question I  
22 pose to Ms. Perry, and although I will ask Ms. Perry to  
23 defer to Ms. Dwyer before answering, is whether these  
24 references are -- represent an accurate representation of  
25 your criminal record? So I would ask Ms. Perry to look

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1 through them carefully and check with your counsel before  
2 answering.

3 **MS. DWYER:** Your Honor, while Ms. Perry is  
4 reviewing those documents I should note that I spoke with  
5 Ms. Green, and, sorry, with the probation officer, and  
6 mentioned that paragraph 48 and paragraph 32 represented  
7 one arrest. And it's sort of indicated in the body of the  
8 explanation of the crime. In fact, in paragraph 32 which  
9 is the notation regarding the escape conviction within the  
10 body of the explanation of the crime, it does say that her  
11 plea on the escape resulted in the dismissal of the  
12 delivery that is in paragraph 38. And although they have  
13 a different docket number, the dismissal portion, in terms  
14 of the disposition, they do reference the case number in  
15 paragraph 32. That's the only thing.

16 **THE COURT:** In your opinion is the content  
17 within paragraph 32 on pages nine and ten accurate? If it  
18 is not accurate, please tell me in what manner it is  
19 inaccurate.

20 **MS. DWYER:** This is accurate, your Honor.

21 **THE COURT:** All right. Turning to Ms. Perry,  
22 I ask you to be sworn.

23 (Defendant is sworn at or about 10:40 a.m.)

24 **THE COURT:** Ms. Perry, have you had an  
25 opportunity to review the Presentence Investigation

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1 Report?

2 **THE DEFENDANT:** Yes, sir.

3 **THE COURT:** Is there anything within this  
4 report that in your opinion is inaccurate?

5 **THE DEFENDANT:** No.

6 **THE COURT:** Let me be more specific. Have  
7 you had an opportunity to look to paragraphs 29 through  
8 and including --

9 **THE DEFENDANT:** -- 29 --

10 **THE COURT:** -- through and including  
11 paragraph 44, that in your opinion is inaccurate? Those  
12 paragraphs to which I have made reference are under the  
13 category of Part B, the Defendant's Criminal History, and  
14 as a subheading, it is Adult Criminal Convictions.

15 **MS. DWYER:** Yes, your Honor.

16 **THE DEFENDANT:** Yes, sir.

17 **THE COURT:** Yes as to what? It is accurate  
18 or inaccurate?

19 **THE DEFENDANT:** Accurate.

20 **THE COURT:** Ms. Perry or Ms. Dwyer, according  
21 to the Presentence Investigation Report, the criminal  
22 convictions to which I have made reference result in a  
23 subtotal Criminal History Score of 14. Let me rephrase  
24 that. According to the Presentence Investigation Report,  
25 the presentence table under Sentencing Guideline, Chapter

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1 Five, Part A, a Criminal History Score of sixteen  
2 establishes a Criminal History Category of six.

3 I speak to both counsel. Do both counsel or  
4 either counsel agree with that recitation?

5 **MR. MARTIN:** The Government agrees, your  
6 Honor.

7 **MS. DWYER:** Your Honor, her career, excuse  
8 me, I believe her Criminal History points in addition to  
9 the Career Offender Provision is what is driving the  
10 Criminal History Category Six.

11 **THE COURT:** What is the basis for that  
12 comment?

13 **MS. DWYER:** Because if the Criminal History  
14 category scored with the points from her convictions is  
15 lower than the criminal history, excuse me, career  
16 offender provision, then the career offender provision is  
17 entered as the highest Offense Level total. So the  
18 Criminal History Category I believe in this case may have  
19 increased due to the career offender provision.

20 **MR. MARTIN:** But if I may, your Honor, we  
21 have two things going on here. One is the defendant, if  
22 you score her Criminal History, she is -- she has sixteen  
23 points and is a Category Six. In addition, she also is a  
24 career offender under the guidelines which would, if she  
25 wasn't already a Category Six, would automatically place

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1 her in a Category Six. So no matter how you slice it in  
2 this case, whether you tally up all of her criminal  
3 convictions and score them with points or whether you  
4 qualify her as a career offender, she is a Category Six.  
5 And I would just note that as part of the Plea Agreement  
6 in this case, the parties acknowledge and agree that she  
7 was a Criminal History Category Six.

8 **MS. DWYER:** That's correct, your Honor. And  
9 in fact, I would withdraw my statements. I was inaccurate  
10 about the criminal history scoring. It was the Offense  
11 Level scoring I was referring to. And please excuse me.

12 **THE COURT:** So can we conclude that according  
13 to the Presentence Investigation Report, Ms. Perry has a  
14 total criminal history score of sixteen.

15 **MR. MARTIN:** I believe from the Government's  
16 perspective, that is accurate and correct.

17 **MS. DWYER:** At this point I have no reason to  
18 dispute it. If I -- I have so many documents. Excuse me,  
19 your Honor. Your Honor, I counted fifteen points. But it  
20 wouldn't change her Criminal History Category.

21 **THE COURT:** According to paragraph 47 of the  
22 Presentence Investigation Report which appears on page 18,  
23 the following words appear: According to the sentencing  
24 table of Sentencing Guideline Chapter Five, Part A, a  
25 Criminal History score of sixteen establishes a Criminal

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1 History Category of six. You take issue with that  
2 comment?

3 **MS. DWYER:** No, your Honor. Your Honor,  
4 probation is indicating that I was correct, that it's 15.

5 **PROBATION OFFICER:** Ms. Dwyer is correct,  
6 your Honor, however, it doesn't change the Criminal  
7 History Category.

8 **THE COURT:** I also ask counsel to look to  
9 paragraph nine in the Presentence Investigation Report  
10 which appears on page five. This is a question I ask of  
11 both counsel. Do you concur that the following language  
12 appears and is binding in this case? Quote, the parties  
13 agree that the defendant, referring to Ms. Perry, is a  
14 career offender and that her guideline range is 188 to 235  
15 months as calculated in the attached worksheets. The  
16 parties also agree that the defendant is subject to a  
17 statutorily mandated term of imprisonment of at least five  
18 years. Pursuant to Federal Rule of Criminal Procedure  
19 11(c)(1)(c), the parties agree that the sentence of  
20 imprisonment for Count Two shall be at least seven years.  
21 The Government also agrees not to request a sentence above  
22 the top of the guideline range calculated in part 2B. Is  
23 that the position of the defendant as well?

24 **MS. DWYER:** Yes, your Honor.

25 **THE COURT:** Government?

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1                   **MR. MARTIN:** Yes, sir.

2                   **THE COURT:** Ms. Dwyer, when do you expect or  
3 hope to have Doctor Wendt to testify?

4                   **MS. DWYER:** When the Court is ready. He is  
5 here.

6                   **THE COURT:** Do you as a counsel for the  
7 defendant have any recommendation as to when she should  
8 testify? Now or at a later time?

9                   **MS. DWYER:** Because you have reviewed the  
10 reports and documents, I believe we may be ready to call  
11 him now.

12                   **THE COURT:** Mr. Martin, do you have any  
13 recommendation to the Court as to when Doctor Wendt should  
14 testify?

15                   **MR. MARTIN:** No. That makes sense to me that  
16 he testify now.

17                   **MS. DWYER:** Shall I call him, your Honor?

18                   **THE COURT:** The answer is yes.

19                   **MS. DWYER:** Thank you.

20                                   -   -   -

21                                   **JEFFREY WENDT,**  
22 being first duly sworn by the Court to tell  
23 the truth, was examined and testified upon  
24 their oath as follows:

25                                   -   -   -



*Jeffrey Wendt - Direct*  
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1 **DIRECT EXAMINATION**

2 **BY MS. DWYER:**

3 **Q.** Please state your name?

4 **A.** My name is Jeffrey Wendt, last name W-e-n-d-t.

5 **DIRECT EXAMINATION**

6 **BY MS. DWYER:**

7 **Q.** Excuse me. I'm sorry, your Honor. Okay. Doctor  
8 Wendt, please let us know what your educational background  
9 is.

10 **A.** I have a bachelor's degree in psychology from  
11 Hillsdale College, Master's in Experimental Psychology  
12 from East Carolina University, and Ph.D. in Clinical  
13 Psychology from here in Wayne State in 2002. I worked at  
14 the Center For Forensic Psychiatry from 2002 to 2006 where  
15 I received intensive training in the area forensic  
16 psychology and was certified as a consulting forensic  
17 examiner.

18 I have had over a hundred hours of continuing  
19 education in the field of forensic psychology since that  
20 time in the areas of psychological testing, assessment of  
21 malingering, violence risk and the assessment of  
22 psychopathy.

23 While at the forensic center I conducted over  
24 500 evaluations of criminal defendants. And since that  
25 time I have engaged in private practice in forensic

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1 psychology where I have conducted approximately 1500  
2 additional evaluations. I have been qualified to testify  
3 in the area of forensic psychology approximately 100  
4 times, generally for issues of competency to stand trial,  
5 legal insanity or criminal responsibility and sentencing  
6 issues.

7 **Q.** Doctor, for the record, would you explain what the  
8 center for forensic psychology is?

9 **A.** It's part of the Department of Community Health for  
10 the State of Michigan. It's responsible for conducting  
11 forensic evaluations of criminal responsibility and  
12 competency for the entire State of Michigan. It's also an  
13 in-patient maximum security psychiatric hospital where  
14 people who have been found incompetent to stand trial or  
15 legally insane are hospitalized. I was also involved in  
16 the treatment and at the hospital as well.

17 **Q.** There was a time recently, I think that you  
18 testified in a case before Judge Rosen, is that correct?

19 **A.** Yes.

20 **Q.** That was United States versus Black?

21 **A.** Yes.

22 **Q.** Can you give us a short version of the charges and  
23 why your testimony would have been relevant?

24 **THE COURT:** You mean, would have been  
25 relevant or --

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1                   **MS. DWYER:** Well, let me rephrase the  
2 question. Thank you, your Honor.

3 **BY MS. DWYER:**

4           **Q.** You were engaged as an expert in the Black case, is  
5 that correct?

6           **A.** Yes.

7           **Q.** And during your evaluation of the defendant -- is it  
8 true that you conducted an evaluation of the defendant?

9           **A.** Yes, I was asked by an attorney at the Federal  
10 Defender's Office to evaluate the defendant, Rosan (ph)  
11 Black who was charged with weapons related offenses, to  
12 evaluate him regarding his competency to stand trial and  
13 his mental state at the time of the offenses, for criminal  
14 responsibility which I did do those evaluations.

15           **Q.** All right. As part of your evaluations, were you --  
16 as part of your evaluation would you ordinarily interview  
17 family members?

18           **A.** It's not unusual to evaluate or to interview the  
19 family members of a defendant.

20           **Q.** And did you do that in the Black case?

21           **A.** Yes.

22           **Q.** Were you qualified as an expert in the Black case?

23           **A.** Yes. I was qualified twice as an expert in the area  
24 of forensic psychology both -- I testified at the  
25 competency hearing in this courthouse on April 26th, 2010

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1 and generally was qualified as an expert in forensic  
2 psychology at the jury trial before Judge Rosen. It was  
3 in late May, 2012.

4 Q. Okay.

5 MS. DWYER: At this time, your Honor, I move  
6 to qualify Doctor Wendt as an expert in forensic  
7 psychology.

8 THE COURT: I will reject that request. Let  
9 me be specific. It has been my practice and policy over  
10 the last 30 years to never identify a witness as an  
11 expert. My rationale for that view is that if the  
12 proponent of the witness believes that the witness is  
13 qualified to opine, he may do so subject to examination or  
14 opposition by the opponent. So that my rejection of  
15 Doctor Wendt is not based on my assessment of his  
16 character or his qualifications but simply on  
17 long-standing policy that I have to allow the parties free  
18 opportunity, free rein to present a witness without the  
19 trappings of being an expert.

20 MS. DWYER: Thank you, your Honor. I will  
21 proceed.

22 THE COURT: I normally in criminal cases  
23 would advise counsel ahead of time. But I did not have  
24 the opportunity to do so. So it is not thought to be or  
25 should not be thought to be a reflection on my assessment

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1 of Doctor Wendt or his character or his qualifications.

2 **MS. DWYER:** Thank you, your Honor.

3 **BY MS. DWYER:**

4 **Q.** Doctor Wendt, are there standard procedures and  
5 methods for conducting your forensic psychological  
6 evaluation?

7 **A.** Yes. Forensic evaluation is somewhat different than  
8 a therapeutic evaluation in that in the forensic setting  
9 there is a motivation quite often for a defendant to  
10 exaggerate or in some cases minimize psychological  
11 problems. Therefore, the forensic psychological  
12 evaluations involve gathering information from a variety  
13 of sources which I did in this case. One is a review of  
14 the case materials and the charges, witness statements so  
15 forth. Another is a clinical interview of the defendant  
16 regarding their history and past and current symptoms.  
17 The third is the administration of psychological testing  
18 for two purposes -- both to look at the defendant's manner  
19 of responding in terms of exaggeration or minimization and  
20 also to identify what problems they do have  
21 psychologically. I also reviewed available treatment  
22 records and behavioral reports from county jails.

23 **Q.** And those county jails were Wayne County, St. Clair  
24 County and Midland, is that correct?

25 **A.** That's right.

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1       **Q.** All right. There were notes in Doctor Johnson's  
2 report regarding observations she made of Ms. Perry. Did  
3 you consider those as well?

4       **A.** Yes. After issuing my report in this case I had the  
5 opportunity to review additional materials in preparation  
6 for this hearing. Those involved, one, a psychological  
7 report issued by Doctor Johnson, also additional  
8 behavioral records from the jails and two Sentencing  
9 Memorandums. I did consider the information contained in  
10 those sources including Doctor Johnson's report.

11       **Q.** Okay. And just one more note. Did you have the  
12 opportunity to read letters that had been written by Ms.  
13 Perry, correct?

14       **A.** I was provided with extensive, over a hundred pages  
15 of handwritten letters prepared by the defendant that also  
16 informed my opinion.

17       **Q.** Okay. This procedure that you used, is that the  
18 standard procedure?

19       **A.** It's the -- my procedures for conducting a forensic  
20 evaluation are standard with that conducted at the Center  
21 For Forensic Psychiatry and, in my experience, by the  
22 majority of forensic psychologists that I am aware of.  
23 And it's a standard practice.

24       **Q.** Could you please describe Ms. Perry's presentation  
25 to you during the interview?

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1       **A.** I met with Ms. Perry at the Midland County Jail in,  
2       on May 30th, 2013 in a session lasting four hours and  
3       forty-five minutes. When I met with her she was  
4       prescribed in taking two medications, Neurontin and  
5       Topomax. Both of those are anti-convulsant medications  
6       often prescribed at mood stabilizers for the treatment of  
7       bipolar disorders.

8               Despite treatment with these medications, her  
9       speech was pressured and difficult to interrupt. Her  
10      affect, her emotional expression was labile, meaning that  
11      she at times would laugh at inappropriate times and cry.  
12      So her affect had a much wider range than most criminal  
13      defendants.

14             She described her symptoms currently and in the  
15      past. She described a long term history of depressed  
16      mood. She described a history of manic symptoms involving  
17      her energy levels, activity levels, sleep patterns,  
18      including racing thoughts, mood swings, and impulsive  
19      behavior that were relevant to the diagnosis.

20             I observed her behavior that was relevant to  
21      diagnosis also in terms of her pressured speech and  
22      associated racing thoughts. She was thinking and speaking  
23      very rapidly which is often a sign of a mood disorder.

24             She described symptoms of anxiety related to  
25      traumatic events in the past and she said that she had

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1 never made suicide attempts and was not suicidal when I  
2 met with her.

3 Q. Thank you. As far as the post-traumatic stress and  
4 the anxiety that you observed during your clinical  
5 interview, did she advise you of significant abuse as you  
6 suggested?

7 A. As part of the evaluation I asked her a series of  
8 questions about her history. The reason this is  
9 important, it's because understanding her history helps  
10 understand her symptoms as an adult because it's my  
11 opinion that these early experiences contributed to the  
12 development of her mental health symptoms and substance  
13 abuse as an adult. She described it a traumatic and  
14 chaotic developmental history saying that she had been  
15 physically abused by her mother's husband, a stepfather,  
16 as a child.

17 She reportedly frequently witnessed physical  
18 abuse by the stepfather toward her mother. She said that  
19 she had been the victim of sexual abuse by her mother's  
20 brother, an uncle, beginning at age seven and this  
21 continued for several years.

22 Skipping forward, she described an incident of  
23 abuse in 2004 where she was reportedly abused by a guard  
24 in the District Court in Detroit while an inmate. She  
25 said that when she was 12 years old she escaped from the



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1 abusive environment of her home and assaulted the  
2 stepfather when she left. She said that as a young  
3 adolescent, twelve, thirteen, fourteen years old that she  
4 engaged in a sexual relationship with older men for  
5 protection and support after leaving the family home. She  
6 said that the environment that she lived in was rife with  
7 violence and drug use, drug selling, weapons and frequent  
8 exposure to violence. And the reason this is important is  
9 because I think these experiences contributed to some of  
10 the problems that she experiences as an adult currently.

11 Q. Did you have reason to have faith in her report of  
12 the 36th District court assault?

13 A. It's my understanding that this issue was  
14 investigated and that she received a financial settlement  
15 as a result of it. And in my opinion that bolstered the  
16 validity of her self report.

17 Q. Thank you. During her clinical interview did she  
18 make any indication about her family and the possible  
19 history of mental illness?

20 A. She reported that her biological father had been  
21 treated for mental health concerns at the Veteran's  
22 Administration.

23 Q. And did you have -- you had the opportunity, of  
24 course, to review the medical records from DCC, correct?

25 A. Yes. Detroit Central City Community Mental Health.

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1 Q. Have you worked with them the past?

2 A. I have had the opportunity to review treatment  
3 records from that facility from time to time. I never  
4 worked with them directly.

5 Q. Okay. When you reviewed the Detroit Central City  
6 records, did you -- was there anything within them that  
7 suggested a mental illness?

8 A. I reviewed these records -- Ms. Perry was apparently  
9 referred to treatment as part of a Diversion Program from  
10 the court. That's my understanding. She first presented  
11 for treatment in February of 2011 after the commission of  
12 this offense but prior to her incarceration for this  
13 offense. At that time she reported a variety of symptoms  
14 including verbal aggression, depressed mood, decreased  
15 energy, hopelessness, worthlessness, irritability, panic  
16 attacks and grief.

17 She was diagnosed by the clinicians at Detroit  
18 Central City -- she participated in two evaluations in  
19 February lasting three hours total. She was diagnosed  
20 with Bipolar One Disorder, poly-substance substance abuse.  
21 And the clinician made a note that she should be assessed  
22 for Post-Traumatic Stress Disorder.

23 In reviewing these records, in the context of a  
24 forensic evaluation, it's important to look at -- for  
25 signs that speak to the validity of the person's self

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1 report. I noted that Ms. Perry did not take that  
2 opportunity to report more severe symptoms such as hearing  
3 voices or having multiple personalities, things along that  
4 nature that are often reported in people who are  
5 malingering mental illness. She was asked directly and  
6 she denied those symptoms.

7 In addition, the clinicians, even though she  
8 denied these major symptoms, the clinicians made  
9 observations of her behavior that were consistent with  
10 mental health diagnosis.

11 In terms of her pressured speech, agitated  
12 behavior, and so forth, she was prescribed with Remeron,  
13 an anti-depressant medication, and Neurontin which is  
14 another anti-convulsant for a mood stabilization. Then on  
15 March 11th when she met with the psychiatrist, she again  
16 did not report these psychotic symptoms and her  
17 medications were changed to Remeron which is the  
18 anti-depressant and Zoloft, another anti-depressant. She  
19 was noted to experience some improvement from treatment.  
20 However, her treatment was cut short. She was only  
21 treated from February to April because she was picked up  
22 by the US Marshals for this case which ended treatment at  
23 DCC.

24 Q. When you reviewed the Sentencing Memorandum by  
25 Mr. Martin, there was an indication by him that that was a

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1 fifteen minute interview at DCC. Is that accurate?

2 **A.** When I read the Sentencing Memorandum it indicated  
3 that her diagnosis was based only on a 15 minute  
4 interview. It's my understanding that that is an error.  
5 A more in-depth review of the records show that she was  
6 diagnosed weeks prior to the date described by Mr. Martin  
7 following three hours of contact with two different  
8 clinicians.

9 On February 17th she participated in a  
10 comprehensive assessment with Social Worker Ronald  
11 Williams from 11:30 a.m to 1:00 p.m. Then in a Case  
12 Management Assessment with a second social worker, Arnold  
13 Stafford, from 1:30 to 3:00. In addition, she met with a  
14 psychiatrist on the date described in Mr. Martin's  
15 Sentencing Memorandum for an additional session. But she  
16 had been diagnosed following the initial treatments, the  
17 initial assessments on February 17th.

18 **Q.** Thank you. Did you have the opportunity to review  
19 records from the Wayne County Jail?

20 **A.** Yes, I did.

21 **Q.** All right. Was there anything in those records that  
22 evidenced mental illness?

23 **A.** The Wayne County Jail records described treatment  
24 with a variety of medications. Over at least ten  
25 different psychotropic medications that were changed

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1 frequently and in my opinion may have been inappropriate  
2 for her diagnosis at times. She was prescribed several  
3 anti-depressants -- Effexor, Elavil, Remeron, Senequan.  
4 She was prescribed the mood stabilizers that I talked  
5 about -- Neurontin, Topomax. She was prescribed  
6 Clonazepam, a benzodiazepine that is often prescribed for  
7 anxiety. She was also prescribed amphetamines --  
8 Adderall, a stimulant medication that is used for the  
9 treatment of ADHD, Attention Deficit Hyperactivity  
10 Disorder.

11 My impression of the wide range of medications  
12 that she was prescribed indicates that there was a  
13 perception that she had problems and that the medication  
14 she was taking was not adequately treating the problems.  
15 Therefore, it was frequently changed and medications were  
16 added.

17 I reviewed records, notes, and assessments from  
18 the psychiatrist, Dr. Lisa Hinchman (ph), the psychiatrist  
19 at the Wayne County Jail. And during the time when she  
20 met with Ms. Perry, Ms. Perry reported a bunch -- several  
21 symptoms -- depression, mood swings, irritability. Again,  
22 she had the opportunity -- at this point she knew she was  
23 charged with the current offenses and had the potential  
24 motivation to exaggerate her mental health symptoms to  
25 further her defense.

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1           Again, she denied the symptoms of psychosis or  
2           mania when asked directly by the psychiatrist. However,  
3           the psychiatrist made notes and observations about Ms.  
4           Perry's behavior that are perhaps more important than what  
5           Ms. Perry told the psychiatrist. She was described as  
6           loose and tangential thought associations which is often a  
7           symptom of psychosis or mania. She was described as  
8           having rambling, pressured speech and racing thoughts  
9           which are characteristics of a manic episode. Patient  
10          voiced paranoia. Affect labile and unpredictable, and she  
11          was admitted to the mental health unit of the jail in  
12          November of 2012. Jail clinicians diagnosed Ms. Perry  
13          with depressive disorder not otherwise specified.

14          **Q.** Was she referred for the psychological ward at the  
15          Wayne County Jail?

16          **A.** Yes. In December, 2012 she had been admitted to the  
17          mental health unit because, as I noted, even though she  
18          denied having manic or psychotic symptoms, these were  
19          observed in her behavior by the clinicians at the jail who  
20          moved her for a better management of these symptoms.

21          **Q.** Let me ask you, when medications are being changed  
22          repeatedly and possibly for very good reason, is there  
23          really an opportunity for a person to stabilize on meds?

24          **A.** There is a wide degree of variation in this because  
25          generally when medications are changed, it's my

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1 understanding that it takes a period of time for the  
2 effects to kick in. And if these medications are changed  
3 frequently or the medications are inappropriate, it can  
4 trigger symptoms that are targeted to be decreased.

5 For example, administering amphetamines or  
6 Adderall to a person with a mood disorder or who has a  
7 potential of having a manic condition can trigger mania.  
8 Some antidepressants can trigger mania. And it's possible  
9 that her presentation may have been consistent with that  
10 or a reaction to inaccurate or inconsistent treatment with  
11 medications in the jail.

12 Q. You beat me to the question when you said that.  
13 Excuse me. I'm so sorry. That the medication --  
14 anti-depressants may trigger a manic episode. Did she, in  
15 fact, take any medications for depression, that would have  
16 the potential of triggering a manic episode?

17 A. Well, she took a variety of medications, and an  
18 individual's reaction to psychotropic medications very  
19 widely. But quite often a person with a manic condition  
20 when presented with an anti-depressant medication, it can  
21 be triggered. She was taking at different times several.  
22 Effexor, Elavil, Remeron, Celexa and Senequan. That's  
23 five different anti-depressants at different times, either  
24 one at a time or in combination with the other medications  
25 that were described.

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1       **Q.** When, let's, take a step back and let me ask you to  
2 describe what bipolar disorder is.

3       **A.** Bipolar disorder is a mood disorder that involves  
4 the presence of both depressive episodes and manic  
5 episodes. A manic episode is a period of expansive,  
6 elevated or irritable mood out of character for the  
7 average person or for that individual. During these manic  
8 episodes, the individual has a variety of symptoms  
9 including inflated self-esteem or grandiosity, a decreased  
10 need for sleep. They may be more talkative or have  
11 pressured speech. They have a flight of ideas or racing  
12 thoughts. They are very distractable, sometimes raising a  
13 concern about ADHD. They have an increase in goal  
14 directed activities such as starting businesses or even  
15 writing letters, for example. They have excessive  
16 involvement in pleasurable activities with a high  
17 potential for painful consequences. So a person in a  
18 manic episode might engage in gambling or risky sexual  
19 behavior or other behaviors that have a high potential for  
20 negative consequences.

21       **Q.** Okay.

22       **A.** So a manic episode is one part of a diagnosis of  
23 bipolar disorder.

24       **Q.** All right. Therefore, is it fair to assume that  
25 these records that you reviewed so far, that indicated



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1 manic episodes, is that correct? The Wayne County Jail, I  
2 think you indicated that, excuse me, that the symptoms  
3 that they observed were consistent with a manic episode?

4 **A.** That's correct. Both the symptoms that Ms. Perry  
5 reported at Detroit Central City, what she reported at the  
6 Wayne County Jail and what were observed by the clinicians  
7 at those facilities in my opinion were representative of  
8 mania in terms of the disorganized speech, the rapid  
9 speech, the labile affect, those were important issues in  
10 informing my opinion.

11 **Q.** You had the opportunity to review the Midland County  
12 Jail records, is that right?

13 **A.** Yes.

14 **Q.** Was there anything in those records that indicated  
15 mental illness?

16 **A.** Yes. When I read -- I requested the Midland County  
17 Jail records and that's where she was housed when I, in  
18 fact, met with her, when she was -- during my evaluation  
19 of her she was taking two mood stabilizing medications,  
20 the anti-convulsants that I described. I think it was  
21 Topomax and Neurontin.

22 **A.** Soon after, and despite taking those  
23 medications, when I met with her she had the labile  
24 affect -- the pressured speech. Soon after I met with  
25 her, within weeks after, according to the records, she was

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1     then prescribed with -- for the first time she was  
2     prescribed an anti-psychotic medication. The Midland  
3     County Jail gave her Olanzapine which is also known as  
4     Zyprexa, which is an anti-psychotic medication, in  
5     combination with Effexor, an anti-depressant medication.  
6     The jail records from Midland indicated that she was  
7     diagnosed with a Post-Traumatic Stress Disorder and  
8     depression.

9       **Q.** Okay. And you had the opportunity to review records  
10     at Saint Clair County Jail, is that correct?

11     **A.** Yes. That was subsequent to issuing my report. The  
12     records that I had from the St. Clair County Jail were  
13     behavioral records written by the jail staff. It's my  
14     understanding that at that jail, the mental health records  
15     are held by Community Mental Health, not by the jail, so  
16     those were not made available. Even though I had  
17     requested them specifically from Community Mental Health,  
18     I did not receive those records. But I have the  
19     behavioral records from the deputies.

20     **Q.** Was there anything within those behavioral records  
21     from St. Clair County that would have indicated mental  
22     illness?

23     **A.** The behavioral records did not describe what  
24     medications she was taking while she was at that jail, but  
25     it described chronic irritability, an argumentativeness.

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1 I have the records here. She was demanding to the jailers  
2 and resistant to them. Some of the things that stood out  
3 to me was, some examples on April 99th, 2013, it was noted  
4 that she wanted to -- she was cleaning the cell and  
5 cleaning the shower at one in the morning and this is  
6 consistent with the increase in goal directed activity,  
7 decreased need for sleep, perhaps inappropriate behavior  
8 and understanding of social conventions regarding her  
9 demand to clean in the middle of the night. That's a  
10 condition that's often seen with manic behavior.

11 Q. Okay. Thank you. You stated that you had an  
12 opportunity to review the letters by Ms. Perry?

13 A. Yes.

14 Q. Did you make any -- draw any conclusion after  
15 reading those letters?

16 A. The letters were extensive and contained many  
17 details that would not be considered by other people to be  
18 relevant to her defense or her adjustments. Her letters  
19 revealed concerns about germs or contamination, her access  
20 to cleaning supplies in the jail. They referred to  
21 paranoia in terms of concerns that the jailers were not  
22 letting her letters be delivered. And maybe most of all,  
23 it revealed a manic energy for writing letters with a  
24 pressured demeanor and maybe a flight of ideas that are  
25 consistent with manic behavior.

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1           One of the diagnostic criteria for a manic  
2       episode involves the flight of ideas, evidenced by a  
3       nearly continuous flow of accelerated speech with abrupt  
4       changes from one topic to another. In the Diagnostic And  
5       Statistical Manual For Mental Disorders it specifically  
6       says, in diagnosing a manic episode, some individuals  
7       write a torrent of letters on many different topics to  
8       friends, public figures, or the media.

9           It was my observation that her production of  
10      these letters, the manner that she wrote them, and the  
11      content of the letters was consistent with the  
12      hypergraphia, the pressured writing often seen in a manic  
13      episode. This was consistent with her overall  
14      presentation in my opinion.

15      **Q.** Thank you. And you did have the opportunity to  
16      review certain incident reports from the Wayne County  
17      Jail, is that true?

18      **A.** Yes.

19      **Q.** And is it fair to say that those incident reports  
20      occurred in 2013 with the most latest incident report  
21      being February 11th, 2014. Is that correct?

22      **A.** Yes, I had incident reports from prior to my  
23      evaluation and then recently received incident reports  
24      from February of this year involving allegations of  
25      inappropriate sexual behavior -- touching the other

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1 inmates on the chest, observing -- before my evaluation,  
2 one of the incidents involved observing the other female  
3 inmates as they showered. Many of the incident reports  
4 involve an argumentative presentation by Ms. Perry.

5 Q. Regarding the incident reports alleging sexual  
6 misconduct or sexual harassment, is that consistent with a  
7 period of mania?

8 A. As I described earlier, one of the diagnostic  
9 criteria for a manic episode involves excessive  
10 involvement in pleasurable activities that have a high  
11 potential for negative consequences. One of the examples  
12 specifically provided for this is inappropriate sexual  
13 behavior. So it's not uncommon for a person in a manic  
14 episode to not respect personal boundaries in terms of  
15 their speech, physical violence sometimes and also sexual  
16 behavior. So her -- these conduct reports, in my opinion,  
17 are consistent with a finding of Bipolar Disorder.

18 Q. You performed psychological testing on Ms. Perry,  
19 correct?

20 A. Yes.

21 Q. And was that one or two tests that you completed  
22 with Ms. Perry?

23 A. I administered the Personality Inventory and then I  
24 had the opportunity to review testing from Doctor Johnson  
25 as well.

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1       **Q.** Please explain to the Court the psychological tests  
2 and your findings.

3       **A.** I administered the Personality Assessment Inventory.  
4 This test involves -- it's a self-report measure and it  
5 provides two very important types of information. The  
6 first in a forensic evaluation is the defendant's  
7 propensity to exaggerate problems or to minimize problems.  
8 Usually exaggeration is found.

9               When I looked at the validity scales on the  
10 Personality Assessment Inventory it indicated that Ms.  
11 Perry did not take the opportunity presented by testing to  
12 exaggerate. Knowing the potential role that this  
13 evaluation could play in her defense, it was important, it  
14 was an important finding to me that she did not take that  
15 opportunity. It was one more example where she did not  
16 take the opportunity to malingering where many defendants do.

17               I viewed this in light of Doctor Johnson's  
18 report where she administered another self-report  
19 personality inventory, the MMPI II which also has validity  
20 scales that look for exaggeration or minimization of  
21 symptoms.

22               On the MMPI II in late 2013 with Doctor Johnson,  
23 Ms. Perry also did not exaggerate symptoms. In fact, she  
24 had a high score on the L Scale which is sometimes known  
25 as the Lie Scale. It's used to determine if a person is

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1 presenting with a fake good response set, trying to  
2 present as much better adjusted than they actually are.

3 Ms. Perry's score on this was quite high. It  
4 was 62 which indicates an attempt to deny negative  
5 characteristics and present herself in a favorable light.

6 So I took these findings of psychological  
7 testing into consideration in looking at her approach to  
8 the evaluations in general over the course of time. As  
9 one more example where she had opportunities to malingering  
10 and did not take those opportunities which leads me to  
11 believe that her presentation in testing and interviews  
12 and in that described in the treatment records is an  
13 accurate representation of her mental status.

14 Once you get passed the first step of seeing if  
15 testing is valid because of exaggeration or minimization,  
16 testing also provides a series of clinical scales that  
17 show where the defendant has psychological problems and  
18 what areas they do not have psychological problems in.

19 Her -- Ms. Perry's psychological profile  
20 indicates problems with substance abuse accompanied by  
21 prominent stress and anxiety. She has a pattern of  
22 suspiciousness and hostility and is very tense, fearful,  
23 and hypersensitive to what occurs around her. Excuse me.

24 Although she reported a history of anti-social  
25 behavior, illegal behavior, drug use, violating rules, the

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1 PAI breaks down the anti-social personality traits scale  
2 into three elements. And one of which, one of the factors  
3 in the anti-social scale is egocentricity. This is  
4 summarized as -- a high score would indicate a lack of  
5 empathy and remorse and a generally exploitative approach  
6 to interpersonal relationships.

7 In Ms. Perry's profile this was one of the very  
8 lowest scores in the clinical profile so that in  
9 addressing whether she has psychopathy, anti-social  
10 approach, it supported my conclusion, in my opinion, that  
11 her anti-social behavior is more a product of her mental  
12 health condition and substance use rather than a product  
13 of an overall criminal orientation or lack of empathy for  
14 others. So that was an important finding also.

15 I had the opportunity view these results in the  
16 context of Doctor Johnson's MMPI findings also that were  
17 consistent with this. The primary finding in Doctor  
18 Johnson's MMPI clinical profile was the anti-social trait.  
19 That was elevated and that can be skewed by a history of  
20 criminal behavior.

21 But Doctor Johnson also reported the clinical  
22 scales, the numerical values or T scores for the other  
23 scales, even though these were not described in the body  
24 of the report, I think it's worth mentioning that on Scale  
25 Nine which is hypomania of the MMPI II, Ms. Perry's score



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1 was significantly elevated. The hypomania scale indicates  
2 elevated mood, accelerated speech and motor activity,  
3 irritability, flight of ideas and periods of depression  
4 that are characteristics of bipolar disorder.

5 In addition, the paranoia scale on the MMPI II  
6 was also significantly elevated but was not described in  
7 the body of the report. This is relevant to a finding of  
8 Post-Traumatic Stress Disorder because this indicates  
9 increased arousal and a suspiciousness in certain  
10 circumstances and situations.

11 So it was my impression that the psychological  
12 test administered that I reviewed both provided valuable  
13 information in terms of her -- the validity of her  
14 self-report, but they were also consistent with the  
15 symptoms that she described and that were observed by  
16 myself and other clinicians.

17 **Q.** Ultimately, what was your diagnosis of Ms. Perry?

18 **A.** The first diagnosis is based on her traumatic  
19 history, that is Post-Traumatic Stress Disorder. This  
20 involves the development of symptoms in response to  
21 exposure to an extreme traumatic event, traumatic events  
22 that result in PTSD can involve extreme physical and  
23 sexual abuse. And that's my opinion, that this was  
24 relevant to Ms. Perry's case.

25 In response to the traumatic event, the

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1 diagnostic criteria involved a response of intense fear,  
2 helplessness or horror. And she described those feelings  
3 as a young child in response to the physical abuse and  
4 subsequent sexual abuse.

5 Another diagnostics criteria involves recurrent  
6 and intrusive, distressing recollections of the event.  
7 And she reported that she thinks about the abuse, in her  
8 words, all the time.

9 Another diagnostic criteria is efforts to avoid  
10 thoughts or feelings associated with the trauma. And I  
11 propose that Ms. Perry's substance use is a reaction to  
12 avoid the emotional trauma, to avoid thoughts or feelings  
13 associated with this trauma.

14 Another diagnostic criteria involves efforts to  
15 avoid activities, places or events that arouse memories of  
16 the trauma. And one example involves how she left the  
17 home at age 12 to try to distance herself from this  
18 environment.

19 Another criteria involves feelings of detachment  
20 or estrangement from others. The Personality Assessment  
21 Inventory indicated that she wants to be close to others  
22 but she has a strong need to be accepted by others but has  
23 difficulty doing so. A criteria involves -- one of the  
24 primary criteria with Post-Traumatic Stress Disorder  
25 involves a foreshortened sense of future where the

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1 individual feels as if they are not going to have a normal  
2 life span. They are not going to have a normal career,  
3 family, or a further the way an average person would.  
4 Therefore they behave -- they can behave in a reckless  
5 manner without regard to the consequences of their  
6 behavior.

7 It's my opinion that this played a role in Ms.  
8 Perry's history of drug use, selling and using drugs,  
9 reckless interpersonal and sexual behavior, and not caring  
10 about her behavior or the consequence of her behavior  
11 because she did not feel valuable enough.

12 Finally, the last symptom of Post-Traumatic  
13 Stress Disorder involves persistent symptoms of increased  
14 arousal. And these can involve difficulty falling asleep  
15 or staying asleep which she reportedly has, irritability  
16 or outbursts of anger which she reportedly,  
17 hypervigilance, sensitivity to the surroundings. And  
18 testing administered by myself and Doctor Johnson  
19 identified paranoia and sensitivity to the surroundings.

20 So given the weight of the available  
21 information, in my opinion, supports a diagnosis of  
22 Post-Traumatic Stress Disorder.

23 Q. And the weight of the documents and the resources  
24 you reviewed include all of the jail records and the DCC  
25 records, her letters and the incident reports, correct?

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1       **A.** That's right. All of the information that I  
2 reviewed including the testing, the reports, the  
3 interview, her criminal history perhaps, it all is  
4 consistent with this finding. It was not inconsistent  
5 with this diagnosis.

6       **Q.** You mentioned criminal history. Is it common or  
7 uncommon for individuals with Bipolar Disorder or  
8 Post-Traumatic Stress Disorder to involve themselves in,  
9 first, some criminal behavior and, secondly, substance  
10 abuse?

11       **A.** According to the DSM Diagnostic and Statistical  
12 Manual of Mental Disorders there is a high degree of  
13 overlap between Post-Traumatic Stress Disorder and  
14 substance abuse. Quite often people with PTSD resort to  
15 drug or alcohol use for the relief of symptoms. Drug and  
16 alcohol use in -- particularly extreme drug and alcohol  
17 use is closely related with criminal behavior because much  
18 of that behavior is criminal in and of itself and people  
19 may involve themselves in criminal behavior to maintain  
20 their substance use habit once it has developed. And that  
21 was my impression of Ms. Perry's history.

22       **Q.** Other than Post-Traumatic Stress Disorder, you  
23 diagnosed her with Bipolar Disorder, is that correct?

24       **A.** That's right.

25       **Q.** What was your findings?

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1       **A.** Bipolar Disorder has a distinct set of symptoms and  
2 particularly for a manic episode. And the first is a  
3 period of abnormally elevated expansive or irritable mood.  
4 I found that Ms. Perry described expansive feelings when  
5 she was on the street feeling like she was someone  
6 special. This is consistent with the grandiosity that was  
7 also identified in the Personality Assessment Inventory.

8               She reported and evidenced a labile mood, often  
9 laughing at inappropriate times and crying. And these  
10 mood swings are characteristic of a manic episode.

11              She -- one of the diagnostic criteria is also a  
12 decreased need for sleep. She was -- she reported a long  
13 history problems sleeping. And, in fact, records show  
14 that she was prescribed Benadryl in the jail, Wayne County  
15 Jail, to help her with sleeping.

16              A diagnostic criteria for a manic episode is  
17 being more talkative or having pressured speech. I  
18 observed this during my interview with her and this was  
19 also described in the treatment records that I had from  
20 the Wayne County Jail.

21              Another diagnostic criteria for manic episode  
22 involves a flight of ideas or racing thoughts. Ms. Perry  
23 reported having these experiences but also the  
24 descriptions by Doctor Hinchman in the jail were  
25 consistent with this as she was described as tangential

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1 and rambling, speaking very fast. This is characteristic  
2 of a manic episode.

3 Another criteria is distractibility. Apparently  
4 Ms. Perry was observed to suffer from distractibility  
5 because she was prescribed Adderall, a treatment for ADHD  
6 while she was in the jail.

7 A diagnostic criteria for a manic episode  
8 involves an increase in goal directed activities or motor  
9 agitation. There were two good examples of this that  
10 support this criteria. The first is the volume, nature,  
11 and content of the letters that she wrote, and also the  
12 findings in the MMPI II administered about Doctor Johnson  
13 that found hypomania and increase in goal directed  
14 activity.

15 Finally, the last criteria is excessive  
16 involvement in pleasurable activities with a high  
17 potential for painful consequences. And I describe that.  
18 This involves the risky sexual behavior, the involvement  
19 with criminal behavior, the poor interpersonal boundaries.  
20 In judging the validity of her symptoms, she had many  
21 opportunities to exaggerate and did not do so. And  
22 therefore, I diagnosis her with Bipolar Disorder.

23 Q. All right. Other than the substance abuse, the  
24 Bipolar Disorder, and the Post-Traumatic Disorder, were  
25 there any other diagnoses of Ms. Perry?

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1       **A.** What I provided were -- I picked up from the conduct  
2 reports and her self-report and her demeanor with me that  
3 she has personality traits that are histrionic.  
4 Histrionic personal traits involve an intense need for  
5 attention from others and a dramatic presentation,  
6 interpersonal presentation. That's picked up clearly in  
7 the St. Clair County Jail records where she is constantly  
8 demanding attention from the jailers. And also paranoid  
9 personality traits where she consistently perceives the  
10 motivation of others as malevolent. I think she has those  
11 histrionic and personalty traits but it does not  
12 constitute a diagnosis of a full personalty disorder. And  
13 this is viewed in light of Doctor Johnson's diagnosis of  
14 Anti-Social Personality Disorder.

15       **Q.** Let me stop you there. Can you explain the  
16 difference, if you can, between Bipolar Disorder and  
17 Anti-Social Mood Disorder?

18       **A.** There is some degree of overlap between Bipolar  
19 Disorder and Anti-Social Personality Disorder in terms  
20 of -- there is often a wide range of affect in persons  
21 with this disorder. There is the behavioral problems in  
22 terms of substance use or interpersonal problems are seen  
23 in both disorders.

24               One helpful factor in determining the  
25 differential diagnosis of these two disorders are the

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1 person's response to treatment with medication. As Doctor  
2 Johnson clearly stated in her report, a person with  
3 Anti-Social Personality Disorder, this is a longstanding  
4 and chronic condition that is resistant to treatment,  
5 whether it's psychotherapy or medication.

6 So a person with Anti-Social Personality  
7 Disorder, you would expect them to present consistently  
8 despite treatment with medication, whereas a person with a  
9 Bipolar Mood Disorder, this is a condition that is quite  
10 often very responsive to appropriate treatment. So you  
11 would expect that a person with this condition, if they  
12 are treated with appropriate medications, you would see a  
13 decrease in their symptoms. And there is information  
14 about that issue in this case that helped me hold this  
15 diagnosis even more firmly.

16 **Q.** You indicated that Ms. Perry had been responding to  
17 medications, or she was on medications while being  
18 evaluated by Doctor Johnson?

19 **A.** Well, I think that Doctor Johnson's report, we are  
20 very fortunate to have that because it provides very  
21 valuable information about the nature of Ms. Perry's  
22 mental health condition and also the role that her mental  
23 health condition plays in her behavior.

24 In my report, one of the conclusions was that if  
25 Ms. Perry was consistently treated with the appropriate



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1 medications that she would have the potential to behave  
2 appropriately, that she would be able to manage herself,  
3 follow rules and do the things she was supposed to do. On  
4 extending that to say that following her period of  
5 incarceration if she is treated appropriately with these  
6 medications that she would have a higher potential to  
7 behave appropriately in the community upon her eventual  
8 transition.

9           Having Doctor Johnson's report and the  
10 opportunity to compare Ms. Perry's demeanor and behavior  
11 with how she behaved in California during those forty-five  
12 days and how she behaved when treated with other  
13 medications at the Wayne County Jail or in other  
14 circumstances, it's essentially -- it provides a  
15 comparison that is similar it a clinical trial in a  
16 research study.

17           Specifically in the Wayne County Jail she was  
18 not consistently medicated. She was given at least ten  
19 different medications that were changed frequently. She  
20 was given a stimulant medication for ADHD. During that  
21 time period, she was described as rambling, having loose  
22 associations, pressured speech. She had inappropriate  
23 interpersonal behavior. She was accused of sexual  
24 misconduct. She had they hypergraphia, the excessive  
25 writing of letters.

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1                   When I saw her in Midland in May of 2013 she was  
2                   taking two mood stabilizers and she showed some  
3                   improvement. But she was still showing the pressured  
4                   speech and the labile affect. She was laughing  
5                   inappropriately, crying at the wrong times.

6                   About a week or two after I saw her the Midland  
7                   County Jail changed and gave her for the first time an  
8                   anti-psychotic medication which is quite often helpful in  
9                   managing a Bipolar Disorder, manic symptoms.

10                  Finally, when she was at the MDC, the facility  
11                  in California where Doctor Johnson saw her, she was  
12                  finally getting appropriate treatment for Bipolar  
13                  Disorder. She was taking anti-psychotic medication, a  
14                  mood stabilizing medication and two anti-depressants. As  
15                  observed by Doctor Johnson during that time period, she  
16                  was following the rules. She was socializing  
17                  appropriately. She had good hygiene. So she was doing  
18                  things the way that she should.

19                  So these observations are very helpful because a  
20                  person with Anti-Social Personality Disorder would not  
21                  evidence a change in symptoms in response to medication.  
22                  But a person with Bipolar Disorder would. Therefore, this  
23                  contrast is helpful in confirming in my mind the diagnosis  
24                  of Bipolar Disorder in place of the Anti-Social  
25                  Personality Disorder. It also gives valuable information

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1 about the role that Ms. Perry's mental health condition  
2 plays on her behavior, that is, that she, when not treated  
3 appropriately, she does have difficulty regulating her  
4 behavior. So it provided more support in my opinion for a  
5 diagnosis of Bipolar Disorder and Post-Traumatic Stress  
6 Disorder.

7 **Q.** There has been a Sentencing Memorandum drafted and  
8 submitted to the Court by the Government that you had a  
9 chance to review, is that correct?

10 **A.** Yes.

11 **Q.** And within that report and -- excuse me. Within the  
12 Government's Sentencing Memorandum he draws several  
13 conclusions regarding the lack of validity of the medical  
14 records, the self-reports reports and your procedures. Is  
15 that true?

16 **A.** Yes.

17 **Q.** Let's take those one by one. He indicates that your  
18 conclusions were cursory, lacking in depth because you  
19 relied on uncorroborated statements by Ms. Perry. Is that  
20 true?

21 **A.** No. The basis for my opinion included her  
22 uncorroborated statements. It also included her  
23 corroborated statements. It also included the police  
24 reports, medical records, and psychological testing. It  
25 was the consistency between these sources of data that

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1 informed my opinion. And that's the standard procedure for  
2 a forensic evaluation.

3 Q. And the criticism that you never observed Ms. Perry  
4 without her knowing, without her knowledge, is that a fair  
5 critique of your report?

6 A. I never did have the opportunity to observe  
7 Ms. Perry other than when I met with her for that four  
8 hours and forty-five minutes. I did, however, have  
9 extensive descriptions of her behavior in the jail and in  
10 the mental health treatment records. So I had good  
11 descriptions of that that informed my opinion.

12 Q. So the several providers who had opportunity to  
13 observe Ms. Perry, their notes and their records advised  
14 you as to some of the self-report?

15 A. Exactly. The combination between what was observed  
16 by the psychiatrist in the jail, what was observed in the  
17 conduct reports from the jail, all of this in my opinion  
18 had a consistency that was -- that spoke to problems  
19 regulating behavior that was consistent with a diagnosis  
20 of Bipolar Disorder.

21 Q. Would you say that Ms. Perry attempted to present as  
22 she wanted you to see her?

23 A. That's a major factor in any forensic evaluation.  
24 That's why looking at the constellation of symptoms that  
25 she presents with is very important. That's why the

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1 consistency between her self-report and other information,  
2 the observations by others, is very important.

3 She did not take the road that many criminal  
4 defendants do, which is reporting that they suffer from  
5 every symptom. Whenever you ask a symptom they might say,  
6 I have that also. They take the opportunity to  
7 exaggerate. She said no when she didn't have the symptom  
8 and she said yes when she claimed to have the symptom and  
9 her self-report, without having a background in mental  
10 health treatment or a degree in psychology or psychiatry,  
11 without a sophisticated understanding of what  
12 Post-Traumatic Stress Disorder or Bipolar Disorder are,  
13 the symptoms that she reported and the symptoms that she  
14 exhibited were consistent with these diagnostic criteria.  
15 And she did not report or exhibit symptoms that were  
16 representative of schizophrenia or some other condition.  
17 So, the consistency between her report, the behavioral  
18 observations and all of the information led me to believe  
19 that she gave an accurate representation of her true  
20 mental health condition.

21 **Q.** Of course that would include the testing, the  
22 psychological testing which indicated she was not  
23 malingering?

24 **A.** That is that a big part of it. And even more than  
25 that, that that she was exaggerating, providing a fake

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1 good profile nearly. In Doctor Johnson, she had a  
2 tendency to minimize problems. So her self-report is  
3 viewed in the context of her overall presentation. And in  
4 my opinion, that is consistent with these two diagnoses.

5 Q. The Sentencing Memorandum by the Government also  
6 indicates that you ignored inconsistencies in Ms. Perry's  
7 story. Is that true?

8 A. One of the examples I believe was provided in the  
9 Sentencing Memorandum was that Ms. Perry told Doctor  
10 Johnson that she had been, in addition to the sexual abuse  
11 by the uncle, that she had also been sexually abused by  
12 two male cousins. And in my interview, she did not report  
13 the sexual abuse by the two cousins.

14 During my interview, she -- as I described, she  
15 was having pressured speech, rapid speech, changing from  
16 one topic to another. She described the abuse by her  
17 stepfather and her uncle, and in the flow of the  
18 conversation, she quickly transitioned into a description  
19 of her traumatic adolescence, surviving in a hostile  
20 environment and then it transitioned into the abuse that  
21 she -- in 2004 at the jail.

22 So I think that her omission of that fact is  
23 more a factor of her rapid and disorganized thought and  
24 speech pattern rather than -- you would think that if she  
25 were going to exaggerate or malingering these problems she

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1 would have made sure to tell me about these problems. And  
2 I think it's more a factor of overall disorganized  
3 cognitive presentation and her rapid thoughts.

4 Q. The Government criticized you for ignoring obvious  
5 reasons to doubt the validity of the DCC's diagnosis. You  
6 did indicate that you had relied in part on the DCC  
7 records, is that true?

8 A. Yes.

9 Q. Was it the only -- clearly those were not the only  
10 records you relied upon, right?

11 A. That's right.

12 Q. And, however, the Government focuses on the DCC  
13 diagnosis and says that the psychiatric evaluation by Ms.  
14 Perry was even more superficial than yours. That isn't  
15 true, is it?

16 A. Well, I think that the diagnosis by DCC did not have  
17 the benefit of much of the information that I do have --  
18 the jail records and the legal documents. They did not  
19 administer psychological testing. They did not have the  
20 benefit of much of the information that I do have. But it  
21 did provide valuable information in that she had the  
22 opportunity -- I considered the alternative hypothesis  
23 presented by Mr. Martin that Ms. Perry was going to DCC  
24 for the purpose of getting drugs to get high -- Xanax for  
25 intoxication or to obtain financial benefit because there

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1 was a mention of Social Security disability application in  
2 the records.

3 And it's my observation that this is  
4 inconsistent with the data because although in March she  
5 did request Xanax from the psychiatrist, she had  
6 participated in over -- in three hours of interviews with  
7 clinicians on February 17th. And they made no record of  
8 her asking for medication until, of course, at least two  
9 weeks after that initial evaluation.

10 One of the case management social workers made a  
11 note that he was going to initiate application for Social  
12 Security disability benefits. But there is no indication  
13 that Ms. Perry initiated that. And it's standard practice  
14 for a community mental health provider when dealing with a  
15 person with no income who they perceive to have mental  
16 health issues, to initiate the proceedings for Social  
17 Security disability benefits.

18 In addition, she, if she were motivated by  
19 malingering, and it's noted that malingering was not  
20 diagnosed by Doctor Johnson. Malingering has been  
21 diagnosed by no clinician that I am aware of with Ms.  
22 Perry, a person with the intention of malingering would  
23 have reported more problems. Ms. Perry denied  
24 experiencing psychosis. She said she had never heard  
25 voices. A lot of what the DCC notes contain are



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1 observations of the clinicians' interactions with her.  
2 They are describing how she behaved rather than her  
3 claiming mental illness.

4 So it's my opinion these are a valuable source  
5 of information, a valid source of information, and a  
6 source of information that is consistent with the overall  
7 body of information that supports her diagnosis.

8 **Q.** One moment, please. Okay. With this diagnosis, do  
9 you have a prognosis for Ms. Perry regarding the  
10 substantiation of her mental illness at this point in  
11 light of that substantiation?

12 **A.** Could you repeat the question, please?

13 **Q.** Let me ask first. Is someone with Bipolar Disorder  
14 and Post-Traumatic Stress Disorder receptive to treatment?

15 **A.** Yes. Especially in contrast to a personality  
16 disorder like Doctor Johnson proposed the Anti-Social  
17 Personality Disorder that would not be responsive to  
18 treatment. And we have a concrete example of Ms. Perry's  
19 amenability to treatment based on the observations when  
20 she knew she was being watched and when she knew she was  
21 not being watched in California. Because at that point  
22 she was prescribed an appropriate course of treatment for  
23 a person with Bipolar Disorder. She was prescribed an  
24 anti-psychotic, a mood stabilizer and two medications  
25 which provides information that she is available -- that

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1 she is capable of behaving in an appropriate manner  
2 because Doctor Johnson described her as behaving in an  
3 appropriate manner without the conduct reports that she  
4 had at the Wayne County Jail when she was not  
5 appropriately treated.

6 So it's my opinion that if she is given an  
7 appropriate course of treatment in the future, that she  
8 has a much improved prognosis. In addition, she has  
9 participated in periods of substance use treatment in the  
10 past. But it's my opinion that those would not have been  
11 effective and were not effective because her mental health  
12 condition was not concurrently treated. It's my opinion  
13 that -- I think it's one of the recommendations in my  
14 report that she would have concurrent treatment of her  
15 mental health condition so that She can be stabilized  
16 emotionally and behaviorally during any period of  
17 participation in a substance use treatment program and  
18 that if both modalities of treatment are employed  
19 concurrently, I think she has a much improved prognosis  
20 and decreased risk of recidivism.

21 Q. Okay. Nothing further.

22 THE COURT: We will take a five minute break.  
23 (Recess from 12:05 p.m. until 12:15  
24 p.m.)

25 THE COURT: I believe Doctor Wendt was in the

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1 process of completing his commentary, and I wanted to give  
2 you an opportunity to complete it.

3 **BY MS. DWYER:**

4 **Q.** Doctor Wendt, had you completed the full response  
5 before we broke?

6 **A.** Yes.

7 **Q.** Okay. I think he has completed it, your Honor.

8 **THE COURT:** Anything further from --

9 **MS. DWYER:** Yes, actually, if I may.

10 **BY MS. DWYER:**

11 **Q.** Doctor Wendt, did Doctor Johnson have an opinion of  
12 the medications Ms. Perry was taking while in California?

13 **A.** Yes. Doctor Perry's -- Doctor Johnson's report  
14 indicated that Ms. Perry was prescribed in taking four  
15 different medications while at the Federal Detention  
16 Center in California, the first of which was Olanzapine.  
17 Olanzapine was described by Doctor Johnson as a PTSD  
18 medication. The brand name for Olanzapine is Zyprexa.  
19 It's an anti-psychotic medication, not a PTSD medication.  
20 It's an anti-psychotic medication sometimes prescribed as  
21 a mood stabilizer.

22 Now, the prescribing information from Eli Lilly,  
23 that's the manufacturer of Zyprexa, defines it as an  
24 atypical anti-psychotic. And it's two conditions that  
25 it's indicated for. The first is schizophrenic, and the

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1 second is for acute treatment of manic or mixed episodes  
2 associated with Bipolar One Disorder and the maintenance  
3 treatment of Bipolar One Disorder.

4 Nowhere in the Eli Lilly information is it  
5 described as a PTSD medication. She was also prescribed  
6 Topiramate. And that's the brand name Topomax. Doctor  
7 Johnson also described this as a PTSD medication. Topomax  
8 is an anti-convulsant medication prescribed as a mood  
9 stabilizer for people with Bipolar Disorder.

10 Mr. Perry was prescribed Venlafaxine. The brand  
11 name is Effexor. Doctor Johnson also described this as a  
12 PTSD medication. However, it's an NSRI, Selective  
13 Norepinephrine Re-uptake Inhibitor that's an  
14 anti-depressant medication.

15 Finally she was prescribed Amitriptyline, the  
16 brand name Elavil which Doctor Johnson described as a mood  
17 disorder medication and that is accurate. This is a  
18 tricyclic anti-depressant.

19 **Q.** Based on her mischaracterization of the medications  
20 Ms. Perry was taking, would that impact her conclusions in  
21 her report?

22 **A.** It's puzzling that she was describing Ms. Perry  
23 taking PTSD medication when there was no -- where Doctor  
24 Johnson said that she is not diagnosed with PTSD. It  
25 raises concerns about the validity of the conclusions, in

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1 my opinion.

2 Further, Doctor Johnson recommended, in addition  
3 to not discontinuing the medication, she recommended that  
4 as part of the sentence that Ms. Perry participate in  
5 psychotherapy. And view this in light of the primary  
6 diagnosis of Anti-Social Personality Disorder that Doctor  
7 Johnson said, these characteristics are unlikely to  
8 substantially change regardless of treatment. So if she  
9 has this condition, why treat it? It's not going to  
10 respond to treatment.

11 But on page 22 of her report she recommends that  
12 Ms. Perry participate in the R and R Program which is --  
13 this is from her report -- is designed to address trauma  
14 related mental health needs of female offenders. And  
15 that's, in my opinion, that's a contradiction of  
16 recommending treatment that is not indicated by the  
17 diagnosis provided.

18 Q. So, Doctor Johnson, she recommended ongoing  
19 treatment with the medication which whether she identified  
20 them as anti-psychotics or anti-depressants or not, that's  
21 what they were, right?

22 A. That's right.

23 Q. And she also recommended intensive psychotherapy,  
24 correct?

25 A. That's right.

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1       **Q.** And those recommendations would be inconsistent with  
2 her diagnosis, in your opinion?

3       **A.** Yes. Particularly in light of the caveat in Doctor  
4 Johnson's report that this diagnosis is unlikely to change  
5 regardless of treatment. Why make Ms. Perry go through  
6 treatment that is not going to help? It's my opinion that  
7 treatment would help.

8       **Q.** So those findings are inconsistent?

9       **A.** Yes.

10       **Q.** Thank you.

11                   **THE COURT:** Mr. Martin?

12                   **MR. MARTIN:** Thank you, your Honor.

13                   **THE COURT:** Before we proceed, let me provide  
14 some direction about our scheduling.

15                   **MR. MARTIN:** Yes, sir.

16                   **THE COURT:** We have not had lunch at this  
17 point. Let me declare that it is now 12:45 p.m. now. At  
18 1:30 p.m, well, if examination or Cross-Examination has  
19 not been completed by that time, we will take an hour's  
20 break and resume at that point. But for now we will  
21 continue until 1:30.

22                   **MR. MARTIN:** I will try to finish before  
23 1:30 p.m.

24                   **THE COURT:** That's all right.

25                                   -   -   -

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1 **CROSS-EXAMINATION**

2 **BY MR. MARTIN:**

3 **Q.** Doctor Wendt, you and I are familiar with each  
4 other, is it fair to say?

5 **A.** Yes, sir.

6 **Q.** We've had a prior case that was the United States  
7 versus Black case that you mentioned earlier when you  
8 testified, is that right?

9 **A.** Yes, sir.

10 **Q.** And I think this is the third time I cross-examined  
11 you. Does that sound right?

12 **A.** Yes, sir.

13 **Q.** In all of those examinations I don't know that I  
14 have asked you some details about your prior practice so I  
15 want to cover some basics here.

16 I believe you testified that you were a forensic  
17 psychologist for the State of Michigan?

18 **A.** That's right.

19 **Q.** And when did you leave employment of the State of  
20 Michigan?

21 **A.** October, 2006.

22 **Q.** And thereafter did you immediately go into  
23 essentially practicing psychology on your own?

24 **A.** Yes.

25 **Q.** And has that been your employment ever since?

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1       **A.** Yes.

2       **Q.** Is it your sole source of income? You, personally?

3       **A.** Practice of psychology?

4       **Q.** Yes.

5       **A.** Yes, sir.

6       **Q.** In your practice do you treat patients?

7       **A.** No, sir.

8       **Q.** Does your practice entirely consist of forensic  
9 psychology?

10      **A.** Yes.

11      **Q.** And is it forensic psychology in both, in court  
12 litigation or forensic psychology in other areas of life?

13      **A.** It's evaluation of criminal defendants. So it does  
14 not involve civil matters or child custody matters. It  
15 involves the evaluation of criminal defendants.

16      **Q.** Are those a mix of both state and federal criminal  
17 defendants?

18      **A.** Yes.

19      **Q.** And can you give us a percent of how many federal  
20 criminal defendants you have as opposed to state criminal  
21 defendants?

22      **A.** The vast majority are state defendants in Michigan  
23 and Indiana.

24      **Q.** Can you tell me how many times you have been  
25 retained in a federal criminal case?



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1       **A.** I have performed approximately 40 to 50 cases in  
2       Federal Courts or in federal cases in the Eastern and  
3       Western Districts of Michigan and Northern District of  
4       Hammond, Indiana.

5       **Q.** How many times have you testified in a federal  
6       criminal case?

7       **A.** This would be the fourth.

8       **Q.** And including that fourth, are you including the  
9       Black case that we just talked about?

10      **A.** Yes.

11      **Q.** How many times did you testify in that case?

12      **A.** Once for competency and once during the jury trial.

13      **Q.** So there was one other prior case before the Black  
14      case that you had testified in federal court?

15      **A.** That's right.

16      **Q.** And in that case, were you retained by the United  
17      States Attorney's Office or by the defendant?

18      **A.** I testified as my role at the Center For Forensic  
19      Psychiatry because the defendant had concurrent state and  
20      federal charges. I was called by the US Attorney to  
21      testify regarding the defendant's diagnosis.

22      **Q.** And do you recall the name of the defendant or the  
23      case name?

24      **A.** Yes.

25      **Q.** What was it?

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1       **A.** Joshua Vicol, V-i-c-o-l, in the Western District of  
2 Michigan. And I was -- performed that testimony as part  
3 of my duties at the Forensic Center.

4       **Q.** When you were still employed by the State of  
5 Michigan?

6       **A.** That's right. So it would have been prior to 2006.

7       **Q.** So after you started your own practice and left the  
8 employment of the State of Michigan you then have  
9 testified a total of three times in Federal Court  
10 including today?

11       **A.** That's right.

12       **Q.** And those two prior times in the Black case you were  
13 retained by the defendant and not the US Attorney's  
14 Office?

15       **A.** Yes.

16       **Q.** Have you ever been retained by the U.S. Attorney's  
17 Office?

18       **A.** No, sir.

19       **Q.** Let me ask you about your billing. I assume you  
20 have been or expect to be compensated for your work in  
21 this case?

22       **A.** Yes, sir.

23       **Q.** And what is your hourly rate?

24       **A.** \$150.

25       **Q.** Does that rate apply equally to time spent in court

1       versus time spent outside of court?

2       **A.** Yes, sir.

3       **Q.** And approximately how many hours have you put in on  
4       this case up to and including today's testimony? Roughly.  
5       I know we are not finished today. Can you give me a rough  
6       approximation?

7       **A.** Between -- involving the evaluation, preparation for  
8       testimony and court appearance, I believe it's between 20  
9       and 23 hours.

10      **Q.** Okay. Thank you. Your diagnosis in this case is  
11      based on this book which is the Diagnostic And Statistical  
12      Manual Of Mental Disorders, Fourth Edition?

13      **A.** Yes, sir.

14      **Q.** This is -- I referred to it in the past I think in  
15      examining you as kind of the Bible for psychology. But it  
16      is considered the authoritative guide to diagnosing mental  
17      illness, is that correct?

18      **A.** It's the most widely used by psychologists.

19      **Q.** And there is a number of mental illnesses and  
20      disorders described in this book, correct?

21      **A.** Yes, sir.

22      **Q.** And the book lays out specific features or  
23      characteristics of these mental disorders, correct?

24      **A.** Yes, sir.

25      **Q.** And there is an entry for Bipolar Disorder, is that

1 right?

2 A. Yes.

3 Q. I don't know if you have your book with you?

4 A. I do.

5 Q. I am looking at page 382. There is an entry there  
6 for Bipolar One Disorder and that was one of the diagnoses  
7 you made of Ms. Perry in this case, is that correct?

8 A. Yes.

9 Q. And I'm looking down under Bipolar Disorder,  
10 Diagnostic Features.

11 A. Yes.

12 Q. Do you see that there?

13 A. Yes.

14 Q. And it says, quote, the essential feature of Bipolar  
15 One Disorder is a clinical course that is characterized by  
16 the occurrence of one or more manic episodes or mixed  
17 episodes, end quote. Did I read that correctly?

18 A. Yes.

19 Q. And manic episodes and mixed episodes, these are  
20 terms that are specifically defined earlier in the manual,  
21 is that right?

22 A. Yes.

23 Q. So it is an essential feature of Bipolar One  
24 Disorder that there be present a manic or mixed episodes,  
25 right?

1       **A.** Yes.

2       **Q.** And if we turn to page 362, there is the criteria  
3 for manic episode, is that right?

4       **A.** Yes.

5       **Q.** And this is the definition provided by the manual  
6 for what a manic episode is, is that correct?

7       **A.** Yes, sir.

8       **Q.** And the first criteria is, quote, a distinct period  
9 of abnormally or persistently elevated, expansive, or  
10 irritable mood lasting at least one week or any duration  
11 if hospitalization is necessary, end quote. I did read  
12 that correctly?

13       **A.** Yes.

14       **Q.** Now, you would agree with me that Ms. Perry was  
15 never hospitalized for any manic episode, correct?

16       **A.** No, she was never hospitalized.

17       **Q.** So, therefore, in order to have a diagnosis of  
18 Bipolar One Disorder there needs be a distinct period of  
19 persistently or abnormally elevated, expansive, irritable  
20 mood lasting at least one week, correct?

21       **A.** That's right.

22       **Q.** Now, I have the defendant's Presentence Report.  
23 Have you reviewed that as part of your work in this case?

24       **A.** Yes.

25       **Q.** I am looking at page eight. Do you have it?

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1       **A.** Yes, sir.

2       **Q.** I'm looking at page eight, paragraph 29 and 30. And  
3 there are -- this is a section of the Presentence Report  
4 that deals with the defendant's adult criminal  
5 convictions. Do you see that?

6       **A.** Could you repeat the page that you are on?

7       **Q.** Yes. Page eight.

8       **A.** Okay. Yes.

9       **Q.** The heading is, Adult Criminal Convictions?

10       **A.** Yes.

11       **Q.** I am looking at paragraph 29 and thirty. Do you see  
12 those?

13       **A.** Yes.

14       **Q.** They detail convictions and arrests -- well, they  
15 detail on the left hand column arrests in 1995 that  
16 subsequently resulted in convictions. Do you see that?

17       **A.** Yes, sir.

18       **Q.** Can you identify for me when in 1995 the defendant  
19 had a one week period of distinct abnormally and  
20 persistently elevated expansive or irritable mood?

21       **A.** Can I define a specific week?

22       **Q.** Yes. In 1995.

23       **A.** No, sir.

24       **Q.** Do you see paragraph 31, 32, where the defendant was  
25 arrested in 1996 and subsequently convicted? Do you see

1 those?

2 A. Yes, sir.

3 Q. Can you identify for me the one week period in 1996  
4 where the defendant had an abnormally elevated and  
5 expansive or irritable mood?

6 A. No.

7 Q. If you look at the next page, page ten, there is an  
8 entry for 1997. Can you identify the week during that  
9 year?

10 A. Yes.

11 Q. In 1997, what was week?

12 A. I don't know the week.

13 Q. How about in 1998? This is page ten on to page 11.  
14 Was there a one week period that you can identify for the  
15 Court where the defendant had an abnormally and  
16 persistently elevated, expansive, or irritable mood?

17 A. No.

18 Q. If you look at the next page, page 11, page 12, page  
19 13, page 14, and on to page 15, all detailing arrests in  
20 2003. Can you identify for the Court a one week period in  
21 2003 where the defendant had an abnormally elevated,  
22 expansive or irritable mood?

23 A. No.

24 Q. Page 15, paragraph 41 and 42, 2004. Can you  
25 identify a one week period during 2004?

1       **A.** No.

2       **Q.** Page 16, 2006, can you identify a one week period in  
3 2006?

4       **A.** No.

5       **Q.** Page 17, on to page 18, 2010, can you identify a one  
6 week period in 2010?

7       **A.** No.

8       **Q.** This is back -- I am getting back to the DSM. This  
9 is the definition for manic episode on page 362. The  
10 criteria for manic episode includes -- and this is  
11 subparagraph E -- quote, the symptoms are not due to the  
12 direct physiological effects of a substance, e.g., a drug  
13 of abuse, a medication, or other treatment, or a general  
14 medical condition, e.g., hyperthyroidism, end quote. Did  
15 I read that correctly?

16       **A.** Yes, sir.

17       **Q.** Is it fair to say that the symptoms of the manic  
18 episode cannot be caused by, among other things, an  
19 illegal narcotic?

20       **A.** That's right.

21       **Q.** Turning back to the Presentence Report, I would like  
22 you to focus on page 23, paragraph 79. Paragraph 79  
23 states, quote, Perry stated she first used alcohol and  
24 marijuana at age 14. Perry recalled prior to her arrest  
25 she drank three times per week on average drinking four to



1 five drinks per occasion. Perry explained she last used  
2 marijuana in October, 2010 and that she had smoked  
3 marijuana daily prior to her arrest, end quote. Did I  
4 read that correctly?

5 **A.** Yes.

6 **Q.** Paragraph 80, the last sentence. During the  
7 presentence -- quote, during the presentence interview,  
8 Perry stated she first used cocaine at age 26 and last  
9 used it in 2009, end quote. Did I read that correctly?

10 **A.** Yes, sir.

11 **Q.** Paragraph 81, quote, Perry stated she illicitly used  
12 prescription drugs, including Xanax and Valium. The  
13 defendant stated she first used Xanax following her 2004  
14 rape which she last used in October, 2010. Perry recalled  
15 she first used Valium in 2005 and last used it in 2009,  
16 end quote. Did I read that correctly?

17 **A.** Yes.

18 **Q.** And in paragraph 82 on the next page, page 24,  
19 states, quote, Perry recalled her first use -- she first  
20 used Ecstasy at age 30 and discontinued using it at age  
21 32. Perry initially stated she experimented with heroin  
22 on one occasion in 2006. The defendant later disclosed in  
23 the fall of 2010 she used heroin on a daily basis for  
24 approximately one month prior to her arrest in October of  
25 2010 due to the death of her brother's girlfriend, end

1 quote. Did I read that correctly?

2 A. Yes.

3 Q. So is it fair to say, Doctor Wendt, that during  
4 2010, according to the paragraphs I just read, up to and  
5 including October, which was when she committed the  
6 offense that is at issue in this case, the defendant was  
7 using simultaneously alcohol, Marijuana, Xanax, and  
8 Heroin?

9 A. I don't know if it was simultaneous, but I don't  
10 disagree with the information contained in here.

11 Q. Now, as part of your examination of the defendant  
12 you examined records from the Detroit Central City?

13 A. Yes, sir.

14 Q. And I believe you indicated in your direct testimony  
15 that the defendant was seen on February 17th, 2011 for the  
16 first time at Detroit Central City. Is that right?

17 A. Can I look at the records to review my -- refresh my  
18 memory?

19 Q. Please do. And I have copies here as well.

20 A. I have got it here. I believe the first contact  
21 that I have documented is February 17th, 2011.

22 Q. That is when she met -- excuse me -- met with a  
23 social worker for in-take essentially, is that right?

24 A. Well, the way I read it, she met with two different  
25 social workers, one for a comprehensive assessment and

1       that was for an hour and a half. Then after that, she met  
2       with a different care provider the same day. This was for  
3       a related but separate, different purpose. This was a  
4       case management assessment. So she had two assessments  
5       there on February 17th, 2011.

6       **Q.** And the comprehensive assessment was prepared by  
7       who? Which social worker?

8       **A.** Ronald Williams, LL, MSW.

9       **Q.** And the start time was 11:30 a.m.?

10      **A.** What's documented is 11:30 a.m. to 1:00 p.m.

11      **Q.** So an hour and a half?

12      **A.** That's right.

13      **Q.** That Mr. Williams, the social worker --

14      **A.** Yes.

15      **Q.** Does a social worker have the same training as a  
16      medical doctor?

17      **A.** It's my understanding that their training would be  
18      different.

19      **Q.** And does a social worker have the same training  
20      generally speaking as someone with a Ph.D. in psychology?

21      **A.** It's my understanding that the training would be  
22      different.

23      **Q.** And then the case management assessment that was  
24      performed on that same day --

25      **A.** Yes.

1       **Q.** -- February 17th, 2011, that was performed by  
2       Mr. Arnold Stafford, is that correct?

3       **A.** Arnold Stafford. That's right.

4       **Q.** And on the signature line there it indicates that  
5       Mr. Stafford is also a social worker?

6       **A.** Well, the initials LBSW follow his name.

7       **Q.** And you understand that to indicate that he's a  
8       social worker?

9       **A.** I believe that is a certification for a social  
10      worker. That's right.

11      **Q.** And it indicates that Mr. Stafford met with the  
12      defendant from 1:30 to 3:00 p.m.

13      **A.** 1:30 to 3:00 p.m. That's right. On the 17th.

14      **Q.** So that according to the records we have looked at  
15      already, that would indicate that she met with two social  
16      workers, a Mr. Williams and Mr. Stafford for a grand total  
17      of three hours on February?

18      **A.** That's the way I read it.

19      **Q.** The 17th?

20      **A.** That's right.

21      **Q.** Did you ever contact Mr. Williams and Mr. Stafford  
22      in this case?

23      **A.** Did I contact them?

24      **Q.** Yes.

25      **A.** No, sir.

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1 Q. Do you have any information about their  
2 qualifications, their training, their experience?

3 A. No, sir, other than the initials on their signature  
4 line.

5 Q. And then on March 2nd, 2011, Ms. Perry met with a  
6 medical doctor it appears, is that correct?

7 A. Greg Washington M.D., that's right.

8 Q. And he produced a report entitled Psychiatric  
9 Evaluation, is that right?

10 A. Yes.

11 Q. And above the signature line on his report it  
12 indicates that the start time was 9:00 a.m. and the stop  
13 time was 9:15 a.m.?

14 A. Yes.

15 Q. So she had apparently a 15 minute meeting with  
16 Medical Doctor Greg Washington?

17 A. On March 2nd, 2011, that's right.

18 Q. The date that she produced the Psychiatric  
19 Evaluation, is that correct?

20 A. That's the way I read it, yes.

21 Q. And if we can go to the first page of that report or  
22 evaluation, I should say, there is a section called  
23 History Of Present Illness. Do you see that there?

24 A. Yes, sir.

25 Q. And the first few sentences of that section reads,

1 quote, she has not had her medication in a while. She is  
2 asking for Remeron and Xanax, end quote.

3 A. Yes, sir.

4 Q. And further down, let me ask you this. I think you  
5 had testified that she, when she went to Detroit Central  
6 City, it was documented in these reports that she was  
7 experiencing a manic episode, is that right?

8 A. I testified that she was -- her behavior was  
9 described -- I will try to find -- if you go back to the  
10 Comprehensive Assessment back on February 17th, page two  
11 out of ten, she is having irritability, worthlessness,  
12 hopelessness, panic attacks, decreased energy, verbal  
13 aggression.

14 Q. Do you understand those things to be things that the  
15 social worker observed or things that the defendant  
16 informed the social worker that she was experiencing?

17 A. Generally those are things that are both observed  
18 and reported. It's likely that they were -- those  
19 questions were asked and answered by Ms. Perry on that  
20 date.

21 Q. And these in your view reflect indications of a  
22 manic episode or symptoms? Hopelessness, things like  
23 that?

24 A. Hopelessness is associated with a mood disorder and  
25 a major depressive disorder is one portion of Bipolar

1 Disorder. The irritability is one of the -- if you recall  
2 in the DSM4, is one of the primary criteria, criteria A on  
3 362 is a distinct period of abnormally and persistently  
4 elevated, expansive or irritable mood.

5 Q. So you do think that those characteristics that were  
6 reported by the social worker would support an indication  
7 that she was experiencing at that time a manic episode of  
8 some kind?

9 A. I think that they are indications that she had  
10 symptoms that are consistent with diagnosis of Bipolar  
11 Disorder which was offered by the clinician on that date.

12 Q. You mean the social worker?

13 A. Yes.

14 Q. Let me go back to the doctor, the medical doctor's  
15 report if I may for a moment. Back in the history of  
16 present illness, the first paragraph, second to last line,  
17 states, quote, no psychotic or manic symptoms. She says,  
18 subquote, sometimes I'm happy and sometimes I'm down, end  
19 subquote. Does not describe, subquote, happy, end  
20 subquote, as consistent with manic symptoms, end quote.

21 Did I read that correctly?

22 A. Yes. And I view that in light of --

23 Q. I didn't pose a questions yet, sir.

24 A. Yes, sir.

25 Q. Following paragraph you mentioned earlier that she

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1 had been raped in 2004 and that you gave her report to you  
2 that she had been raped in 2004 weight as being true  
3 because you had seen indications that there was a  
4 settlement?

5 **A.** Her self-report was that there had been a  
6 settlement.

7 **Q.** And, therefore, you felt that that lended credence  
8 to the fact that she had, in fact, been raped?

9 **A.** If there was a settlement, it would lend credence to  
10 that report.

11 **Q.** So let's look at this second paragraph in the  
12 psychologist's report if we could. And the second  
13 paragraph starts, quote, she first started taking  
14 medication in 2004. She states that a guard raped her.  
15 She says that the person left and never came back. She  
16 received a 3,000-dollar settlement. End quote. Did I  
17 read that correctly?

18 **A.** Yes, sir.

19 **Q.** Now, you, based on your training and experience, you  
20 have heard of situations where a person is, claims to be  
21 attacked or hurt in prison and the prison would settle a  
22 case for a nominal figure, not because the attack or  
23 injury actually occurred, but in order to avoid the costs  
24 and time of litigation?

25 **A.** True.



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1                   **MR. MARTIN:** Your Honor, I have no further  
2 questions for Doctor Wendt.

3                                   -   -   -

4                   **REDIRECT EXAMINATION**

5 **BY MS. DWYER:**

6           **Q.** Doctor Wendt, you were asked several questions  
7 regarding the Presentence Investigation Report and the  
8 defendant's use, Ms. Perry's use of alcohol, Marijuana,  
9 Xanax, and Heroin, and I will include Valium in that list.

10          **A.** Yes.

11          **Q.** There's two things that you have discussed. You  
12 have discussed her traumatic childhood as well as her  
13 mental illness. Correct?

14          **A.** Among other things, those are two of the primary  
15 factors, yes.

16          **Q.** So is it uncommon for someone who is not being  
17 treated for mental illness to self-medicate?

18          **A.** It's very common for a person with a mental illness  
19 to use drugs or alcohol as a form of self-medication. The  
20 differential diagnosis of any mental health condition  
21 involves looking at whether it's triggered by a substance  
22 use, medication use or some medical factor such as a head  
23 injury. I think there is valuable information available  
24 as to whether Ms. Perry's mental health condition is  
25 triggered by or directly attributable to substance use.

1 I have read many conduct reports about Ms. Perry  
2 in the jails. There is no indication that she has been  
3 abusing drugs or alcohol that I am aware of. She has,  
4 however, experienced mental health symptoms in the jail in  
5 the absence of substance use.

6 In terms of differential diagnosis, if it was  
7 only due to the substances, you would expect that these  
8 symptoms would remit when she is in a period of sobriety  
9 while incarcerated, and that was not the case. So it  
10 lends more support to the diagnosis as being valid, in my  
11 opinion.

12 Q. If someone is choosing to self-medicate rather than  
13 participate in a mental health treatment in therapy, will  
14 the self-medication relieve the symptoms of Bipolar  
15 Disorder or Post-Traumatic Stress Disorder?

16 A. It can exacerbate the symptoms and it can  
17 temporarily relieve the symptoms. It can relax a person.  
18 But it can cause more problem that make the condition  
19 worse. It really varies from case to case.

20 Q. You are aware that Detroit Central City is a mental  
21 health facility, correct?

22 A. Yes.

23 Q. And I believe they may have rehab there as well,  
24 correct?

25 A. I am not certain of all of the services that they

1 provide.

2 Q. But it is a mental health facility?

3 A. Yes. That's my understanding. It's a community  
4 mental health, comparable to CMH providers statewide, I  
5 would say.

6 Q. Okay. First of all, she was -- she was sent to DCC  
7 by the Court as part of a mental health diversion,  
8 correct?

9 A. That's my understanding, yes.

10 Q. And at DCC, because it is only a community mental  
11 health treatment facility, isn't it fair to say that those  
12 social workers would be trained in mental health?

13 A. It's my understanding that social workers are  
14 trained in mental health. I don't know the exact specific  
15 training that a social worker goes through. But it's  
16 common practice in my review of treatment records over  
17 several years that it's very frequently in community  
18 mental health settings that there is a collaboration  
19 between social workers and psychiatrists and case managers  
20 or nursing to address the mental health needs of their  
21 clients which was consistent with what I read in this  
22 report, these reports from DCC.

23 Q. You were asked questions about Ms. Perry's report  
24 that she was happy and that the definitions or the ways  
25 she had described that mood of happy, the social worker I

1 think had found that that was not consistent with manic  
2 episode. What is your opinion of that?

3 **A.** Well, I would view it in light of how she described  
4 herself with Doctor Hinchman. She said I'm not -- I've  
5 never had psychosis and I never had mania. I am not  
6 psychotic or manic. But Doctor Hinchman described her as  
7 rambling, loose associations. These are the catch phrases  
8 that psychiatrists use when a person is manic. Loose  
9 associations, rambling, tangential. So even though Ms.  
10 Perry was saying, no, I don't have those problems, Doctor  
11 Hinchman was writing, I see these problems.

12 **Q.** All right.

13 **A.** So, the fact that she says, look, I'm not too happy,  
14 when viewed in the context of the overall presentation and  
15 my understanding of Bipolar Disorder, the development and  
16 course of it over a lifetime, that the sentence that was  
17 picked out by Mr. Martin certainly would not rule out a  
18 diagnosis of Bipolar Disorder.

19 **Q.** You were asked several questions about 2003 and 2004  
20 regarding whether you could identify a specific week in  
21 those years where a manic episode was displayed. And you  
22 were unable to state a single week. Is that right?

23 **A.** That's right.

24 **Q.** And does that impair your opinion at all?

25 **A.** In diagnosing any individual, unless you are --

1 unless they are in-patient, they are hospitalized and they  
2 are observed 24 hours a day or if you have 24 hour  
3 surveillance of the person, especially with a person in  
4 the environment that Ms. Perry was in where access to  
5 resources is limited in comparison to other communities,  
6 the fact that you can't identify which seven days she had  
7 these symptoms during a certain year doesn't rule out the  
8 diagnosis at all. In fact, if you refer -- I'm going to  
9 refer to page 386 that describes of the DSM4 TR that  
10 describes the course of Bipolar Disorder in a person. It  
11 says -- this is at the top of page 386. The average age  
12 of onset is 20 for both men and women. It would be  
13 unusual for a person who is 37 or mid-thirties when she  
14 was treated to be their first episode. Bipolar One  
15 Disorder is a recurrent disorder. More than 90 percent of  
16 individuals who have a single manic episode go on to have  
17 further episodes.

18 So, viewed in light of an understanding of the  
19 natural course of a Bipolar Disorder and the information  
20 that I have available that supports my opinion that this  
21 is a valid diagnosis, would indicate that her pattern of  
22 behavior during the time periods, even those years where  
23 there is no documented seven day period of elevated,  
24 expansive or irritable mood, wouldn't rule out that  
25 diagnosis. In fact, her reckless and impulsive behavior

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1 during those time periods is consistent with this  
2 diagnosis.

3 **MS. DWYER:** Nothing further.

4 **THE COURT:** Mr. Martin, anything further?

5 **MR. MARTIN:** No, your Honor.

6 **THE COURT:** All right. You are excused. You  
7 may step down.

8 **THE WITNESS:** Thank you, your Honor.

9 **THE COURT:** Earlier in talking with counsel,  
10 I had indicated we would take a break at 1:30 p.m. for an  
11 hour. But in as much as the counsel have concluded their  
12 examination of Doctor Wendt at an earlier time, we will  
13 stop now and we will resume, and I would ask the parties  
14 to be back in their chairs at one hour from now and that  
15 means -- help me out. What time would that be?

16 **MR. MARTIN:** 2:30, your Honor? 2:25?

17 **THE COURT:** You are the official clock  
18 watcher.

19 **MR. MARTIN:** Okay. I will make sure Ms.  
20 Dwyer is here punctually.

21 **THE COURT:** We will resume at the time  
22 designated by Mr. Martin.

23 **MR. MARTIN:** Thank you, your Honor.

24 (Recess from 1:30 p.m. until 2:30 p.m.)

25 **THE COURT:** Please be seated. Ma'am, do you

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1 have any additional witnesses to call?

2 **MS. DWYER:** No, I don't, your Honor. Thank  
3 you.

4 **THE COURT:** Mr. Martin?

5 **MR. MARTIN:** No, sir, I do not.

6 **THE COURT:** Do either counsel have argument  
7 with regard to the evidence that has been presented --  
8 placed on the record?

9 **MR. MARTIN:** I do have some argument, your  
10 Honor.

11 **MS. DWYER:** Yes. However, I anticipate  
12 conducting that during allocation.

13 **THE COURT:** I wanted to give to you both an  
14 opportunity to help me or to advise me as to what in your  
15 opinion the sentence should be.

16 **MS. DWYER:** Yes.

17 **THE COURT:** And that is something that I do  
18 not and should not and will not avoid. So I want to give  
19 to you the opportunity to express your views with regard  
20 to the Presentence Investigation Report, to the sentencing  
21 that I should impose.

22 **MS. DWYER:** Your Honor, I misunderstood. I  
23 thought you were asking if we had argument about that  
24 testimony.

25 **THE COURT:** No. That may be if you desired

1 it to be incorporated into your, quote unquote, Closing  
2 Argument.

3 **MS. DWYER:** Okay. Thank you, your Honor.

4 **THE COURT:** So that -- because we have gone  
5 through a number of different hoops since this morning,  
6 let me ask the question that may have been asked already.  
7 Are there any -- is there any opposition or any comments  
8 on the accuracy of the Presentence Investigation Report?

9 **MR. MARTIN:** Still none from the Government.

10 **MS. DWYER:** None from the defense.

11 **THE COURT:** I also want to make certain that  
12 we give to Ms. Perry an opportunity to speak to the Court  
13 if she so desires. And let me address that issue right  
14 now.

15 Ms. Perry, you have been sworn as a defendant in  
16 this matter. The question I pose to you, is there  
17 anything that you want to say to me before I impose a  
18 sentence upon you?

19 **THE DEFENDANT:** Yes.

20 **THE COURT:** Let me say to you that if in the  
21 event you do want to speak to the Court, that if there is  
22 an objection by your counsel, you should await for a  
23 decision by the Court. All right. Go right ahead.

24 **THE DEFENDANT:** Do you want me to go now?

25 **MS. DWYER:** Your Honor, would you like us at



1 the podium?

2 **THE COURT:** No. Stay right there.

3 **THE DEFENDANT:** I would just like to thank  
4 the Court for everything that they have done for me. I  
5 know this was a difficult case and I want to thank you for  
6 reading all the letters that I have written you and taken  
7 time out, consideration and taken time to read those.

8 **THE COURT:** Let me say as a postscript that  
9 whenever I get communication or communications from a  
10 party, I read it at least twice so that I want to make as  
11 certain as I possibly can to do that which I would expect  
12 and hope that a Judge would do in the event that I was --  
13 the circumstances were different. But go right ahead.

14 **THE DEFENDANT:** I apologize for so many  
15 letters. Even when you told me not to write, I felt like  
16 I needed to write you more because I was -- I'm going  
17 through a lot of things and I felt like I had no one else  
18 to talk to. And so that's the reason for me writing you.

19 When I first got locked up, I didn't have no  
20 understanding of why I got locked and why these things  
21 happened to me so I just prayed about it and asked God for  
22 some understanding and what's when I first got accusations  
23 and got put on lockdown. I was alone by myself for 90  
24 days the first time. And when I was alone for those 90  
25 days the first time, all I had was my Bible in my hand.

1 When I had my Bible in my hand I learned a lot because God  
2 let me read the word and he showed me a lot and gave me  
3 some understanding of life and understanding of why I was  
4 here. And it was a blessing for me to come here and to  
5 spend these three years while I was incarcerated, and  
6 through the sufferings that I went through it drew me  
7 closer to God.

8 And also I learned a lot about myself that I  
9 didn't know about and helped me correct myself on know who  
10 I was because for so long and so many years I have been  
11 out there on the streets and my mind wasn't right and I  
12 didn't know what to do in a lot of situations. And since  
13 I spent time here these three years going through things I  
14 have been through and spending time alone on lockdown  
15 because I spent a lot of time on lockdown by myself, I  
16 believe that was for a special purpose from God because it  
17 drew me closer to him. I have learned a lot about the  
18 word. I have learned a lot about myself and I learned a  
19 lot about people. And I am thankful today and I'm blessed  
20 today. And my main focus now today is just to get back  
21 home and help my mother and help my children and do what  
22 is right in life because I don't ever want to live the  
23 life that I lived before.

24 And I just want to the thank you again. I want to  
25 thank Lisa, the courts for everything she has done for me.

1 And I'm just asking you for help if you can help me  
2 because I never did have the help that I needed. And  
3 before I got locked up I did ask the last Judge to help me  
4 and that's when he sent me to Detroit Recovery Project to  
5 help me. And those was my main goals was to do right and  
6 change my life and do right so I could get my kids so they  
7 don't have to be victims and go through what I went  
8 through, especially my youngest son who is now in  
9 juvenile. But I am thankful that he is in juvenile  
10 because he's safer right now. And my other son is in  
11 college. He's listening to everything I am telling him to  
12 do. And my daughter, she helped my mother out. And I  
13 just want to make it known so I can try to help them so  
14 nothing would happen to them. That was my main concern,  
15 was to help my family and my children.

16 That's all I would like to say is thank you for  
17 listening. And the last time I was here I cried so much  
18 when I was talking to you because I was so much  
19 emotionally hurt and I never had nobody listen to me. And  
20 I just felt kind of like love when you was listening to me  
21 so that's what made me cry so much.

22 But medications that I have been on has helped me  
23 in the past. But a lot of medications they put me on I  
24 have been on so many because I didn't like the way they  
25 was making me feel because I didn't feel I needed those

1 heavy doses of medication to try to maintain my life. And  
2 I haven't been on no medications for over three weeks now  
3 and I feel myself kind of more main focused a little more,  
4 too, as well because I haven't been on those medications.  
5 And I got compliments from officers at Midland County  
6 because I just left that jail Monday. They told me I was  
7 doing real good because I wasn't pressing the emergency  
8 button and not disrespectful. But I never have been  
9 disrespectful but I don't disrespect people and I try show  
10 them the respect, inmates as well.

11 Also when I left Monday I was moved Monday to  
12 Sanilac County and they sent me back to downtown before I  
13 went back to Sanilac and they treated me very horrible  
14 when I went back there. One officer told me to get in  
15 this room and he slammed the door in my face away from the  
16 general population, and things like that just make me feel  
17 some type of way. And that's what hurts and that's what  
18 gives me pain and anxiety because of the way I had been  
19 treated. And that is the only reason why I was writing  
20 letters and that's the only reason why I tried to tell my  
21 lawyer because I felt like I should have been treated this  
22 way, especially when I do good and try so hard to do good.  
23 And the more I tried to do good the more I was getting  
24 accused of things. I was called all types of things in  
25 the jails and they gave me a reputation with inmates, also

1 about officers talking to inmates, and that's what make  
2 they lie on me and feel that they can do whatever they can  
3 do or say whatever they can say to get me in trouble, and  
4 it worked.

5 So that's what makes me write to you as well to  
6 let you know because I want you to understand me and where  
7 I'm coming from and let you know I am not that type of  
8 person.

9 So, with that, that's why you got the last letter.  
10 And like I said, I apologize for so much trauma that's  
11 been in my life, but that's something else that I learned,  
12 how people in the world is, but I still show love to  
13 people and to the community no matter how evil they are.  
14 I still try to help them or correct them if I can because  
15 this is what I have learned. And that's it.

16 **THE COURT:** To what extent, if at all, has  
17 your relationship with God brought you closer to your  
18 children?

19 **THE DEFENDANT:** I teach them -- my son who  
20 went to Michigan State, he do Bible studies at the school  
21 that he's at. And he know a lot about God, too. And he  
22 will be 20 years old this Monday. And I am very proud of  
23 him because he listens to everything I tell him. He study  
24 the word, too, and every school he go to he teaches God's  
25 word. That's what I was doing when I was in the jail. I

1 was doing Bible studies. I get the girls, we get in a  
2 circle and we pray together and read Scriptures about God  
3 and at the end we discuss what we learned about God  
4 because that makes me feel better and helped me. I told  
5 them even though I am in the situation that I am in, I  
6 told them how many deaths I had in the family and I told  
7 them that it still makes me feel at peace and I feel okay.  
8 And it makes me feel good when I do right. If I do  
9 something wrong, I repent and ask God to forgive me even  
10 if I say something respectful to somebody or if I do  
11 something wrong or if an inmate don't want to clean up, I  
12 ask, if they trying to get smart with me, and I say, I'm  
13 just trying help you, you know, keep yourself clean if I  
14 can. I not nobody's parent. I'm not nobody's mother. I  
15 am not a rock boss because that's what they always want to  
16 call me just because I don't want to be the only one  
17 cleaning up. And, you know, they just lost. It's A lot  
18 of people lost out here in the community. And if I can, I  
19 want to try to help the community so they won't have to go  
20 through what I went through and experience the things that  
21 I experienced because it's a lot of children that don't  
22 have a lot of love in their life and don't have no  
23 guidance like I didn't have no guidance and the things I  
24 went through.

25 So the things I experienced, I try to help someone

1 if I can, but it's all I can do. It's up to them if they  
2 want to listen or not, but a lot of people have listened  
3 and a lot of people care and appreciated me talking to  
4 them about God and showing them and helping them if they  
5 poor and they don't have nothing. And especially addicts.  
6 When I see addicts come in, I look at them and I can't  
7 believe that I was out there with them or even trying to  
8 get them something like that to sell. That's not  
9 something I would do again because I would never want to  
10 get somebody to destroy their live to make them look the  
11 way they was looking or take them away from their kids.  
12 Probably a lot of them lost their children.

13 So that is, you know, what I learned since I have  
14 been locked up. I see so many people coming in and on  
15 heroin and their addiction and everything and that has  
16 made me want to change my whole way of thinking. I have  
17 to change my mind and my mind has been changed since I  
18 have been locked up. And going through the sufferings has  
19 helped me go through that. It helped me to be stronger in  
20 life to deal with things that is coming my way because  
21 they say that in the Bible, too, when you are into God you  
22 will be treated badly and the enemy will attack you. And  
23 that's what I experienced, but I am okay with it.

24 **THE COURT:** To what extent, if at all, have  
25 you been or will you be a role model to your children?

1                   **THE DEFENDANT:** Yes, sir. I have been, even  
2                   though all the times I have been incarcerated, when I  
3                   called them at home and talked to them I said, make sure  
4                   you all go to school so you all don't want have to  
5                   experience what I experienced and what your father  
6                   experienced and they always listen to me because they love  
7                   me very much and I love them.

8                   The only one I have a problem with is my youngest  
9                   son. The last time he was here he was 13. He's 16 now  
10                  but he had no guidance. No one in the house has shown him  
11                  no love. He didn't have a mother figure. I'm not there.  
12                  And that's his main hurt because his father was murdered  
13                  last year. I am in here, and then my father passed away  
14                  which my father was like a dad to him because my mother  
15                  and father adopted my kids. So by him having all those  
16                  losses in life I understand how he feel because he out  
17                  there smoke marijuana. He out there hanging with gang  
18                  members. And I try to tell him to stay away from these  
19                  type of people but it's hard for him to listen to me, and  
20                  he been through so much hurt and pain. And don't nobody  
21                  understand it. That's why I asked my sister or brother can  
22                  they pick him up and take him to their house and show him  
23                  some love and attention because my mother buy him clothes  
24                  and she buy him everything he want but that's not showing  
25                  no love. He don't want no material things. He needs some



1 attention and some love because I'm not there, his father  
2 not there and he lost his grandfather. I understand these  
3 things but it seem don't nobody else out there understand.  
4 And my mother say she do show him love which I understand  
5 because she keep buying him stuff but she is grieving  
6 herself because my father is gone, my brother was murdered  
7 and then I'm in here. So she lost too much. She is hurt,  
8 too, and she was grieving through liquor.

9 And so I just have -- that's when I have to go to  
10 God and pray very strongly and ask him to protect them and  
11 bless them for me until I can get home and try to show  
12 them the guidance that I learned since I have been in  
13 here. And he got grazed by a gun. By the grace of God he  
14 didn't get hit. They said if the bullet would have hit him  
15 in such a way he would have been paralyzed. So that's how  
16 I know that God is listening to my prayers. I just ask  
17 Him to keep him protected and away from those kids because  
18 I don't want him in the wrong car at the wrong place at  
19 the wrong time and get a lot of jail time because he's  
20 lost and he don't know. But I understand what he is going  
21 through. And he might need mental health because while  
22 he's a juvenile, my mother told me that he asked that he  
23 get something to help him sleep. And she said, no. She  
24 thought he was crazy because she don't want him to have  
25 nothing like that. And I tried to explain to her that he

1 might need something like that. I was like, because  
2 that's what I take when I'm here. I was like, when I  
3 first got locked up, I was so hurt I felt like I didn't  
4 even want to live no more because it was too much pain for  
5 me. And that's how I felt. I was like I would rather be  
6 in a mausoleum where my brother. At least he at peace.

7 But that's when God let me hear his voice. So I  
8 was telling her, she said that his probation officer  
9 called and said that he is real evil. He don't want to  
10 take showers. He not eating. And I was like that's  
11 because they don't understand what he going through. I  
12 was like, he might need to talk to a doctor or something.

13 So I don't want him to go through what I went  
14 through. And he supposed to get out April 24. And I'm  
15 just afraid. I don't want him to get back out there and  
16 get back -- go back astray and get back out there to the  
17 streets and then something happened to him.

18 So that's my main focus, trying get home to my  
19 family and my kids so that I can get my baby and raise him  
20 like a mother that I was supposed to because I didn't get  
21 that chance to raise him when he was younger because I was  
22 out on the streets. And then I wasn't mature in the way I  
23 am today.

24 And he's also in a colostomy bag when he was born.  
25 And I know he had to have certain things in him and I

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1 don't know if that's the reason he don't want to take  
2 showers around boys or I don't know what is going on with  
3 him, but I know he needs someone to talk to. And it's  
4 just my kids I am worried about and my mother and family  
5 what I always been worried about. I'm always worried  
6 about my family.

7 I know I was out there in the streets doing the  
8 wrong thing. For a long time I didn't have nowhere to go.  
9 I was staying in the streets and hotel rooms and things  
10 like that. I didn't want to be there. And even when I was  
11 using drugs I didn't let myself be no crackhead because I  
12 was embarrassed to go home to look like that or ashamed.  
13 But it's still something that I tried and it's something  
14 that made me feel like it took the pain away. But that's  
15 still not something that I want to be. I want to be a  
16 mother to my children. And when my grandmother was alive  
17 then still I would go take her groceries, my mother's  
18 groceries and things like that. So that's where my heart  
19 is. I don't have a negative heart. I don't disrespect  
20 people. My behavior, I know how to control myself. That  
21 is the most important thing is learning how is control  
22 myself and knowing how to think and do positive. And I am  
23 willing to do anything you ask me to do to prove that to  
24 the courts.

25 **THE COURT:** Anything else?

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1                   **THE DEFENDANT:** That's about it.

2                   **THE COURT:** All right. Thank you.

3                   **THE DEFENDANT:** Thank you.

4                   **THE COURT:** Ms. Dwyer?

5                   **MS. DWYER:** Thank you, your Honor. First of  
6 all, I would like to comment on what Ms. Perry just  
7 explained to the Court. She indicated to you that she has  
8 been off medications for about three weeks. She  
9 essentially says she thinks she is doing better now  
10 without her medications because she feels more clear  
11 headed.

12                   I would indicate to the Court that listening to  
13 her just now was evidence of manic behavior. She was --  
14 had rambling speech. She was difficult to interrupt. She  
15 was paranoid. She is to this minute convinced that the  
16 sheriffs deputies in every jail are plotting against her.  
17 And she had quick changes just now in different subjects.  
18 She went from her son to deputies to her mother to -- and  
19 she was sort of all over the map a little bit during her  
20 allocution.

21                   So I want to bring this to the Court's attention  
22 because Ms. Perry indicated to me she is having a hard  
23 time frankly wrapping her head around the mental illness.  
24 Though she recognizes that something was wrong when she  
25 was out there all these years, I don't know whether she

1 has been able to wrap her head around it. It's not just  
2 what happened to you as a child. It's not just this using  
3 of drugs, but there is something more, with more depth.  
4 Okay.

5 That being said, I still think that if she were  
6 ordered to participate in substance abuse treatment and  
7 therapy and take medications as appropriate, I do believe  
8 that she would be responsible to that order. I think that  
9 she would cooperate with taking medications. I think she  
10 has had a bad experience at the Wayne County Jail where  
11 her medications were being changed and switched so often  
12 that she probably didn't know whether she was coming or  
13 going. However, I think she is in the process of  
14 accepting what this is. And I am sure the Court is aware  
15 that a lot of people have a difficult time accepting their  
16 own mental health. In fact, Doctor Wendt, his testimony  
17 indicated that both his evaluation and Doctor Johnson's  
18 evaluation, that they both indicated that she was not  
19 malingering and that if anything, she denied certain  
20 feelings or prospects even though the objective tests  
21 revealed that she, in fact, did suffer from certain  
22 feelings and mood swings and what not.

23 So I think she is doing the same here today. I  
24 think she is in denial a little bit about her mental  
25 illness. And I think she is -- I mean, it's going to take

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1 her a minute, there is no doubt, to really understand that  
2 she has a mental illness and that's it's a chemical  
3 imbalance, that she didn't do anything wrong and that she  
4 is still a beautiful person in the eyes of God.

5 The other thing that is more important is when  
6 reading the Government's Sentencing Memorandum, and this  
7 was the one I'm referring to that was filed last --  
8 July 19th, 2011. That Sentencing Memorandum is as  
9 important as the Supplemental Sentencing Memorandum. The  
10 supplemental dealt with criticisms of Doctor Wendt. And I  
11 believe Doctor Wendt has substantially responded to all of  
12 those criticisms. However, the initial Sentencing  
13 Memorandum indicated -- really addressed the purposes of  
14 sentencing. And I want to comment on that.

15 The Prosecutor indicated that Ms. Perry has not  
16 been deterred because of prior lenient sentences. And my  
17 suggestion here is that, your Honor, there is case law  
18 that says if someone has not had a severe punishment in  
19 the past, like if they have been on probation, that in  
20 those cases, a lengthy sentence has quite an impact on  
21 that person, and a lengthy sentence certainly doesn't have  
22 to be a guideline sentence in this case. Seven years is a  
23 lengthy sentence. I mean, her children will be, you know,  
24 30 by the time she gets out with seven years.

25 The other note I want to make is that specific

1     deterrence to her would be participation in the drug  
2     treatment program in prison. Specific deterrence to her  
3     would be mental health treatment while she is in prison.  
4     Therefore, she would have this, you know, hopefully, the  
5     tools when she is the process of reentry into the  
6     community, to have a stable understanding of both her  
7     mental illness and the substance abuse issues and the  
8     extraordinary amount of work it will require of her to  
9     address these from this point forward. This point  
10    forward. It has to be a life long commitment.

11             With regard to Ms. Perry's specific offender  
12    characteristics, it is so, so -- it breaks my heart to  
13    think that children are treated like this all the time.  
14    Ms. Perry, I'm sure this Court is aware, comes from one of  
15    the worst neighborhoods in Detroit. It's steeped, steeped  
16    in drug culture and violence. I think the only prospects  
17    or options for people in that neighborhood are to either  
18    deal drugs or possibly work as a single cash money check  
19    changing place. There just aren't options. And when you  
20    are poor, you can't go anywhere. And when you are poor  
21    and you flee your house because you are being beaten so  
22    bad and you have sex with someone to make sure the other  
23    people in the neighborhood don't harm you, and then you  
24    end up selling drugs at 13 on the streets and soliciting  
25    males, that -- it's almost impossible for me to wrap my

1 head around that a little 12 and 13 year old at that point  
2 had already gone through so much.

3 The fact that she was pregnant at 15 should be no  
4 surprise given that history. The fact that she used drugs  
5 throughout her life should be no surprise given that  
6 history. The fact that we hear now that she is mentally  
7 ill should not be surprising to anyone either.

8 Doctor Wendt, in my opinion, he was excellent. He  
9 really broke down the difference between the diagnosis of  
10 Post-Traumatic Stress Disorder and Bipolar Disorder rather  
11 than Doctor Johnson's diagnosis of anti-social behavior or  
12 personality disorder. And even if the Court is on the  
13 fence about whether this is Bipolar or anti-social  
14 behavior, we do know that the medications that she was  
15 taking while at the detention center in California helped  
16 because she was doing well. And they were anti-psychotic  
17 drugs and anti-depressants versus anything else that she  
18 had taken up to that point despite the fact that she has  
19 been in jail for three years.

20 So I think that he was right when he said that is  
21 almost like a clinical study which is not getting adequate  
22 supervision and treatment for her mental health. She  
23 writes the letters. She participates in hypergraphia.  
24 She gets into verbal and physical confrontations at the  
25 jail. She is confrontational with both inmates at times



1 and she is confrontational with the staff. But that is  
2 consistent, again, with manic behavior because of the high  
3 level, the extreme level of irritability suffered by  
4 bipolar individuals.

5 The diagnosis of Post-Traumatic Stress, as far as  
6 I know, that is not difficult for me to understand. And I  
7 don't know that anyone is disputing that as much as the  
8 bipolar disorder. And the reason they -- I'm sure this  
9 wants to be disputed is because my opinion and Doctor  
10 Wendt's opinion is that Ms. Perry will rehabilitate once  
11 she is appropriately treated. If it's anti-social  
12 behavior, then it looks like she may not be able to be  
13 receptive to treatment.

14 My heart tells me she will be receptive to  
15 treatment, that she is willing to accept what it will take  
16 in this life long commitment.

17 Now, I think it's also important to note as I did  
18 in my Sentencing Memorandum that the career offender  
19 guidelines overstate her criminal history as well as the  
20 guidelines. I indicated in this report that in my  
21 Sentencing Memorandum, rather, that six of her points came  
22 from marijuana charges, paraphernalia charges, simple  
23 possession of cocaine. In fact, the five points for the  
24 felonies -- of the five points for the felonies, one was a  
25 possession of cocaine and one was a delivery of cocaine

1     which, of course, is unacceptable. All of these are  
2     criminal behavior. However, they are examples of being  
3     attributable to not only her developmental history but the  
4     neighborhood she was residing in, as I said, has limited  
5     options.

6             Ms. Perry indicated to Court that it was very  
7     important to her to be able to bring groceries to her  
8     mother and to other family members. She bore that. Just  
9     like in her personal history she -- after her father would  
10    beat her mother so bad that Ms. Perry thought she was  
11    going to die, she would find her mother crying and hiding  
12    in the basement. And when she was unable to calm her  
13    mother, she took it on herself to run the house and to  
14    take care of her younger siblings.

15            It makes sense that that is where she -- her mind  
16    is at up to this point. In fact, Doctor Wendt indicated  
17    that she tested with a very high level of empathy. We  
18    don't see a lot of high level of empathy around here. But  
19    she did test with a high level of empathy. And I think  
20    that's worthy, too, that she still, somewhere she knows  
21    it, that God has revealed to her that she has it in her  
22    heart to be a better person. She cares about people and  
23    in that way and for that reason I also don't think that  
24    you can turn your back on the idea that she's not a person  
25    that will benefit from rehabilitation. I believe she

1 will.

2 But the career offender guidelines, as I said,  
3 overstate her criminal history because of the number of  
4 marijuana and drug paraphernalia and cocaine. And all of  
5 this accounts for 11 points of her criminal history of 15.  
6 Of 15 points, there is that.

7 The other point I wanted to mention to you is that  
8 she did cooperate with the Government. She sat down with  
9 Mr. Martin. This was prior to my time of representing  
10 her. Andrew Wise had represented her during the proffers.  
11 But it's my understanding that she did proffer, that she  
12 did -- in fact, officers from Detroit homicide and the ATF  
13 came and met with her at the jail. So she did that  
14 without counsel even being present. And whether or not  
15 her assistance qualified as the substantial assistance  
16 required for the Government's 5K motion is not the only  
17 issue here. You may consider her attempts to cooperate  
18 and assist the Government as her commitment to transgress  
19 no more.

20 The guidelines in this case are excessive given  
21 the circumstances. She is convicted of a sale of almost,  
22 but not even, 32 grams of crack cocaine. She is -- she  
23 suffers from a mental illness. And I quoted adequate  
24 support and authority for this Court to recognize that our  
25 Supreme Court and our Sixth Circuit both endorse variances

1 for mental illness and for severe emotional and childhood  
2 abuse. I believe that authority is right on point with  
3 this situation we have here with Ms. Perry, and I hope  
4 that you will consider that.

5 In addition, it's interesting to me that I had  
6 used the word horrifying in describing the abuse she  
7 suffered as a child because when Doctor Wendt tested her,  
8 and this is what was revealed in the objective testing,  
9 was that she had deep seated feelings of fear and horror.  
10 And when he said the word, horror, I have to say that I  
11 have never seen that come up with a psychological profile  
12 either. But if she is reliving this abuse everyday in her  
13 mind and if she is trying to self-medicate, it's not going  
14 to work for her. She needs the Court's help. She needs  
15 some resources. But I can't stress enough, seven years  
16 can be a lifetime opportunity to change. That's  
17 contemplated by the Rule Eleven. And I ask the Court to  
18 consider that.

19 There is a case in the 6th Circuit in USA versus  
20 Harriston that recently said that given the small amount  
21 of crack cocaine that was -- which the defendant pled to,  
22 given the potential for rehabilitation, given that in that  
23 case a five year sentence promoted general deterrence but  
24 also that specific deterrence would be satisfied by the  
25 programs for mental health and substance abuse. So I feel

1       that that case is on point.

2               And I will leave the Court with a final quote that  
3       I thought was -- I think you would like to hear. In  
4       Griffin v. United States -- excuse me -- Griffin v.  
5       Illinois, which is a United States Supreme Court case,  
6       Justice Frankfurter had said, that the Court is to  
7       consider that the possibility of rehabilitation has  
8       returned as a forceful and mitigating factor because it's  
9       a goal of punishment. That goal cannot be served if the  
10      defendant can look forward to nothing beyond imprisonment.  
11      Hope is a necessary condition of mankind for we are all  
12      created in the image of God. A Judge should be hesitant  
13      before sentencing so severely that he destroys all hope  
14      and takes away all possibility of a useful life.

15              Your Honor, please don't sentence her to more.  
16      Please sentence her sufficient, but not greater than  
17      necessary to meet these goals. Thank you.

18              **THE COURT:** Thank you. Mr. Martin?

19              **MR. MARTIN:** Yes, your Honor. I agree with  
20      Ms. Dwyer who makes very good arguments always, of course,  
21      that rehabilitation is an important goal of sentencing and  
22      providing hope for a defendant is important. But balanced  
23      against that, of course, is your responsibility not only  
24      to deter this defendant, but to deter others. And I  
25      believe in this case, driving my view of this case is,

1 quite frankly, protecting the public and incapacitating  
2 the defendant for a significant period of time so she  
3 cannot continue to commit crimes as she has done so  
4 prolifically in the past.

5 I first want to address the issue of mental  
6 health. Obviously this issue is contested. I think the  
7 Court is sitting as a fact finder at this sentencing  
8 hearing on the mental health issue, that if that is, in  
9 fact, the case then I believe that you first must find if  
10 you are going to mitigate her sentence at all for any kind  
11 of mental health, to find by a preponderance of the  
12 evidence which is the standard for fact-finding at  
13 sentencing hearings, that she, in fact, has a mental  
14 health illness.

15 And I would submit to you that that burden has not  
16 been met in this case. First, let me address Doctor  
17 Wendt. You know, Doctor Wendt diagnosed the defendant  
18 with Bipolar Disorder which has, as I pointed out in my  
19 Cross-Examination, the essential feature -- that is the  
20 quote from the Diagnostic Manual -- the essential feature  
21 is a one week or more period of mania. He could not point  
22 to one week from the 1990s all the way up to 2010 of her  
23 ever having a period of one week of mania. And he tried  
24 on redirect to say, well, you really didn't need to  
25 identify the week. Of course you do. Why? So that you

1 can investigate whether other things may have caused the  
2 type of manic symptoms someone has -- speaking rapidly or  
3 changing the subject or crying or being very happy.

4 And during the course of the Cross-Examination,  
5 one very obvious explanation for any type of manic  
6 behavior on the part of the defendant, footnote, if she  
7 even has had any manic behavior, would be her chronic  
8 substance abuse. During Cross-Examination I think I  
9 identified three or four controlled substances which she  
10 was taking simultaneously just before she walks into the  
11 Detroit Central City and is diagnosed for the first time  
12 in her life with having a mental illness, this being a  
13 women who has essentially spent, since age 20, almost her  
14 entire life in and out of the Criminal Justice System. It  
15 strikes me as highly doubtful that a person who has had  
16 the number of arrests and convictions and sentences and  
17 probation and parole as this defendant would for the first  
18 time be diagnosed with a true mental illness at age 37.

19 I believe that her diagnosis when she went to  
20 Detroit Central City was predicated on her admitted  
21 serious daily drug abuse. When she went there, was she  
22 expressing sadness or happiness or pressured speech  
23 because she had this previous undiagnosed mental illness?  
24 Or was it because she was high on heroin or drunk or high  
25 on marijuana or taking her Xanax, abusing her Xanax pills?

1 Doctor Wendt would have you believe, no, no, no.  
2 It's this undiagnosed mental illness that only he and this  
3 other medical doctor who examined her for 15 minutes,  
4 never reviewed any medical records of any kind, only they  
5 were able to discover the truth. I just find that so  
6 incredible.

7 Also with respect to Doctor Wendt, I asked him  
8 questions about his experience testifying in Federal Court  
9 and I was surprised to hear that the cases that I have had  
10 with him are basically the extent of his experience  
11 testifying in federal court with the exception of one  
12 other. The case I had with Doctor Wendt before was United  
13 States versus Black. It was a case in front Judge Rosen  
14 from a couple years ago.

15 Doctor Wendt testified at a competency hearing  
16 claiming that defendant was incompetent to testify. The  
17 Magistrate Judge disagreed, found the defendant competent.  
18 He went through the entire trial process, the appellate  
19 process without ever having any competency issues  
20 whatsoever.

21 Then at trial, Doctor Wendt offered another  
22 opinion, that the defendant was legally insane. That  
23 theory was rejected by 12 unanimous jurors. In addition,  
24 Doctor Wendt wanted to testify about certain matters in  
25 the trial. I'm not going to get into exactly all the



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1 details, but he wanted to testify about certain subject  
2 matters related to the hereditary nature of the  
3 defendant's claimed mental illness. And Judge Rosen ruled  
4 that he could not testify to those opinions because they  
5 did not meet the Daubert standard, the basic standard in  
6 Federal Court for a, quote unquote, expert to render an  
7 opinion. And these are just some of the descriptions that  
8 Judge Rosen offered about Doctor Wendt's opinion.

9 **MS. DWYER:** Your Honor, I know you read those  
10 in his Sentencing Memorandum but --

11 **MR. MARTIN:** I would like to highlight them  
12 if I may. I did not interrupt her presentation. I ask  
13 for the same consideration.

14 **MS. DWYER:** We don't have a transcript. We  
15 don't have a transcript.

16 **MR. MARTIN:** I will provide one. Of course,  
17 I cited to the case number in my pleading. They are  
18 available for defense counsel to obtain at any time. But  
19 I do have a transcript here which I am going to hand to  
20 her. And I even tabulated the portions that are relevant.

21 So Judge Rosen described Doctor Wendt's  
22 methodology as quote, attenuated, scattered, weak, and,  
23 quote, stacking one supposition upon another supposition  
24 leading to a supposition as a basis for a diagnosis, end  
25 quote. He didn't allow Doctor Wendt to testify on that

1 subject. He did testify at trial and his theories were  
2 soundly rejected by the jury.

3 In addition, that case went up on appeal to the  
4 Sixth Circuit. A decision just came out in January of  
5 this year. I'm handing defense counsel a copy of that  
6 opinion, again, also publicly available. And here is what  
7 the Sixth Circuit had to say about the evidence of  
8 insanity: Quote, the evidence overwhelmingly establishes  
9 end quote, that the defendant was not insane. Quote,  
10 there was, quote, compelling evidence, end quote, that the  
11 defendant was malingering, meaning faking. And that the  
12 Sixth Circuit says, quote, on this record we do not see  
13 how he could possibly have met his burden of proof,  
14 meaning his burden of proof to establish that he was  
15 mentally insane.

16 This is a person that Doctor Wendt testified under  
17 oath was mentally insane. And the evidence was so  
18 overwhelmingly against that position that even the Sixth  
19 Circuit affirmed the conviction and published a published  
20 Opinion on the topic.

21 Let me also just address one other thing that has  
22 come up in this case, and that is the psychological test.  
23 Doctor Wendt gave the defendant a psychological  
24 assessment -- yes, Personality Assessment Inventory. This  
25 is a psychological test. There has been lots of

1 discussion how the test shows this and the test shows  
2 that.

3 This Personality Assessment Inventory is what is  
4 called a self-report test. What that means is the  
5 defendant basically provides the answers to a multiple  
6 choice test. These psychological tests are hardly rock  
7 solid in terms of their predictive power. I'm not saying  
8 that they are not a tool that psychologists shouldn't use  
9 or they are one data point to have, but they are far from  
10 the type of reliable scientific testing that we have come  
11 to expect in the realm of physical science.

12 And just to illustrate this point, I want to point  
13 the Court to -- and I just found this on-line the other  
14 day. This is a published study by two researchers in  
15 Australia. It's called -- the title of the study is The  
16 Examination Of The Reliability And Validity Of The  
17 Personal Assessment Inventory. That is the test that  
18 Doctor Wendt gave to the defendant. It was published in  
19 the Journal Of Psychopathology And Behavioral Assessment.  
20 I'm not going to go into great detail on this, but I want  
21 to the point out that this was a study that was done  
22 involving three groups of individuals, a, quote unquote,  
23 normal group of people, meaning people basically taken off  
24 the street or from college, a group of people who were  
25 schizophrenic who were selected because they were patients

1 at a mental health hospital in Australia. And then a  
2 group of people who were alcoholics who were taken from a  
3 rehabilitation clinic. All of these groups took the  
4 Personality Assessment Inventory, and according to this  
5 study, the Personality Assessment Inventory was able to  
6 correctly identify the schizophrenics 70 percent of the  
7 time which, of course, means that 30 percent of the time  
8 they are missing the schizophrenics.

9 But here is the real salient point on that is that  
10 when the alcoholics took the test, the test showed that  
11 the alcoholics were schizophrenic 76 percent of the time.  
12 So it misdiagnosed people who were or had a history of  
13 abusing substances as schizophrenic. And the researchers  
14 speculate the reason that is is people who are abusing  
15 substances often manifest the same types of symptoms as  
16 people who are mentally ill, just as is the case with Ms.  
17 Perry. These psychological tests do not deserve the same  
18 type of weight that I think medical tests in the physical  
19 realm have. And so that was a key part of Doctor Wendt's  
20 opinion and I don't put much weight on it myself.

21 You do have though before you a report from a  
22 Bureau of Prison's psychologist, Doctor Johnson, who  
23 examined the defendant for a forty-five day period, much,  
24 much longer than Doctor Wendt's four and a half hour or  
25 four hour and forty-five minute examination. She reviewed

1 not only her own interactions with the defendant but she  
2 had the opportunity to interview people who interacted  
3 with the defendant when the defendant -- when the  
4 psychologist wasn't with the defendant, meaning other  
5 prison guards. She reviewed jail tapes of the defendant  
6 calling family members. And she found no evidence  
7 whatsoever either at the time she was at the facility or  
8 any time before to diagnosis the defendant with a mental  
9 illness. Instead she diagnosed her with this anti-social  
10 personality which is essentially a set of character traits  
11 that are not susceptible to rehabilitation. People with  
12 anti-social personality don't follow rules. They don't  
13 conform to society's norms. They engage in risky behavior  
14 not necessarily because they are mentally ill, because  
15 that's who they are. That's their personality. If that is  
16 who they are and that is their personality, no amount of  
17 drugs or medication or therapy is really going to change  
18 that. And that is what Ms. Perry has. She is  
19 anti-social. She is not mentally ill.

20 When Ms. Perry and Ms. Dwyer talk about all of  
21 this history of abuse and all of these horrific things  
22 that have happened to Ms. Perry, from day one I have been  
23 sounding the alarm that I would like to see some  
24 corroboration for these statements, something, a family  
25 member to come forward and say, I saw that abuse. I was a

1 recipient of this abuse like she was. Or I knew the  
2 person who was abusing her. It was a stepfather in her  
3 own home where other people lived. There has never ever  
4 been any person, document, anything, not a scintilla of  
5 corroboration for what she is saying.

6 And while it may seem harsh to say -- to  
7 disbelieve someone who is claiming they were treated in  
8 such a horrible fashion, I think it's our obligation,  
9 given this defendant's record and her obvious motivation  
10 to fabricate here today, to ask for something more than  
11 just her uncorroborated statement that these things  
12 happened to her.

13 Doctor Wendt never demanded any kind of proof. He  
14 never made any effort to try to corroborate it. He just  
15 accepted it as true. I am unwilling to do that because I  
16 don't believe that her criminal conduct is all just a  
17 function of some uncorroborated abuse or some  
18 uncorroborated mental illness. I think her criminal  
19 conduct is a result of her own choices, her situation, her  
20 decisions.

21 And when you look at her criminal record, it is  
22 atrocious. I was looking just doing some math as Ms.  
23 Dwyer was talking and looking at my Sentencing Memo from  
24 2012, and she has 19 separate criminal arrests. She then  
25 has another 15 or 16 arrests that led to convictions,

1 separate arrests that led to convictions, for a total of  
2 34 separate encounters with law enforcement that led  
3 either to an arrest and no charges or an arrest and  
4 conviction -- 34 starting at age 20. And at the time I  
5 wrote this she was 37 years old. That is -- I've never  
6 seen a defendant with that kind of track record. It's  
7 like two a year, every two years or every -- at least  
8 twice a year she is getting arrested or arrested and  
9 convicted. It's quite remarkable. And of the 15 criminal  
10 convictions she has, eight of those involved drugs.

11 And I would like to respond to something that Ms.  
12 Dwyer argued. And that is, that, hey, look, a lot of  
13 these drug related convictions aren't really that serious,  
14 you know, conviction for drug paraphernalia, that kind of  
15 overstates the serious nature of her criminal activity. I  
16 strongly disagree. And I want to point out, for example,  
17 this is just one of many, but I will point this one out,  
18 she had a conviction in 2003 for possessing drug  
19 paraphernalia, crack pipe and rolling papers in a hotel  
20 room. But that wasn't whole story.

21 In 2003 a parent called the police to report that  
22 their 14 year old daughter had run away from Indiana, a  
23 place that the defendant had previously sold drugs and had  
24 a conviction for escape. The parents believed that their  
25 daughter was in a hotel room in Michigan with the

1 defendant and other people. Police officers went to the  
2 hotel room and the defendant answered the door. The  
3 defendant lied to the police and told them the 14 year old  
4 girl had left the room thirty minutes earlier with an  
5 unknown male. The police officers went into the room and  
6 they found the 14 year old hiding in the bathroom and it  
7 was inside the room they also found the crack pipe and the  
8 rolling papers.

9 So, yes, she was convicted of possessing drug  
10 paraphernalia. But if you are the parents of that 14 year  
11 old girl, this case means a whole heck of a lot more than  
12 just some paraphernalia in a hotel room. I found it  
13 somewhat ironic that the defendant is telling you now that  
14 she wants to do all of these good works and wants to help  
15 children and her children and things like this when she  
16 has a history of involving young people in the same types  
17 of criminal conduct that she now says got her on the path  
18 to where she is today.

19 That 14 year old girl wasn't the only one. In  
20 2004, a 16 year old girl who did not return from home was  
21 reported to the police and she was found in a residence  
22 with the defendant who had drugs in her possession and the  
23 defendant was subsequently convicted of drug possession.  
24 And then the most disturbing of all, frankly, to me is  
25 that when the defendant was arrested and charged with



1 possessing crack cocaine in 1996 in a home in Indiana, the  
2 police found that she had hidden at least some of the  
3 crack cocaine in the pockets of her own two year old  
4 child. The father of children myself, we all know how  
5 dangerous, incredibly dangerous that would be because two  
6 year old children, they put all sorts of things in their  
7 mouth. Crack cocaine could have -- that's like giving a  
8 small child matches or a weapon or something. I mean,  
9 it's so irresponsible.

10 And I have to say that given that she has -- her  
11 drug related crimes have impacted not only her own  
12 children but other children is, again, a reason I believe  
13 it's time for this Court to really be the first Court to  
14 impose a sentence that recognizes the very strong need to  
15 protect society as well as deter the defendant.

16 I'm also not persuaded by the defendant's claim  
17 that she -- the picture she paints of herself of a person  
18 who is now a devout Christian and has reformed her ways  
19 and has seen the light, I have a stack of her jail records  
20 of her conduct in jail while she has been awaiting trial  
21 and sentencing in this case, and they show -- they paint a  
22 completely different picture of what the defendant is like  
23 when she is not in front of you.

24 And I just want to point out that the most recent  
25 one is from February of this year where she is written up

1 at the Wayne County Jail for essentially touching another  
2 inmate's breasts. She had earlier had difficulties with  
3 this inmate and it culminated in this assault. I'm just  
4 going to read to you from a portion of an officer's report  
5 regarding the defendant. It says, quote, Inmate Perry  
6 thinks because she is a federal inmate she does not have  
7 to comply by the rules. It appears every time I work this  
8 unit she has a problem with another inmate. It appears  
9 that Inmate Perry likes to bully certain inmates. While  
10 writing this report, Inmate Perry approached the deputy  
11 station stating, subquote, I'm not going downtown, end  
12 subquote. Inmate Perry was instructed to leave the desk.  
13 Inmate Perry left and continued to stop and talk on the  
14 catwalk which she knows is a violation. Inmate Perry  
15 likes to challenge authority to see how far she can go,  
16 end quote.

17 And just looking at records from the St. Clair  
18 County Jail, these are just some choice quotes. Quote,  
19 inmate seems to be playing games again, end quote. Quote,  
20 inmate continues to be rude and disrespectful to officers,  
21 end quote. Quote, inmate continues to play games  
22 regarding her medical care, end quote. Quote, inmate  
23 wants to argue and be confrontational with officers, end  
24 quote. Quote, inmate continues to try to get deputies to  
25 fight with her, end quote. Quote, inmate continues to ask

1 for another mat to try to make officers feel sorry for  
2 her, end quote. Quote, inmate keeps demanding that  
3 officers do things for her. She constantly tried to get  
4 officers upset, end quote. Quote, during medical pass,  
5 inmate was playing the subquote, pick a pill, subquote,  
6 game refusing to take a med, then saying she will take it.  
7 And it goes on and on and on with her.

8 With Ms. Perry, she is never -- she is never  
9 responsible. It's always somebody else's fault. It's  
10 always the officers. They are the ones picking on her.  
11 She never does anything wrong. It's always the other  
12 inmates. They are the ones picking on her. She never  
13 does anything wrong. All of this criminal activity of  
14 hers, year after year after year, the arrests, the  
15 convictions, everything. It's not her fault. It's this  
16 previously undiagnosed mental illness.

17 I don't buy it for one second, your Honor, and I  
18 would ask that you impose a very serious sentence in this  
19 case. You know, Ms. Perry is here today because she sold  
20 what I would describe as a fairly significant amount of  
21 crack cocaine. This was, just referring to my Sentencing  
22 Memorandum, this case actually involved three sales -- a  
23 controlled purchase for Ms. Perry on September 22, 2010,  
24 of 19.68 grams for \$900, that is crack cocaine, as well as  
25 a sample of heroin. A September 27th, 2010 sale to a

1 Confidential Informant of crack cocaine weight 31.75 grams  
2 for \$1,350. And then a sale on October 11 of 1.41 grams  
3 for \$150. You're talking about someone who sold in a  
4 very, very short period of time nearly 50 grams of crack  
5 cocaine for well over \$2,000, not some low level minor  
6 street dealer.

7 I would also point out that her last conviction  
8 for drug trafficking at the state level before she was  
9 convicted of this offense was in 2006 when the defendant  
10 was arrested after she delivered one large piece of crack  
11 cocaine and three packets of heroin to a Confidential  
12 Informant who is working on behalf of the Dearborn Heights  
13 Police Officers. In fact, the defendant violated her  
14 probation and her parole in that case numerous times. She  
15 was actually on parole at the time she committed the  
16 instant offense. So she is involved not just in selling  
17 crack cocaine but heroin.

18 And I wanted to point out to the Court lastly that  
19 these are very serious offenses. I have been saddened to  
20 see recent news articles and other news media reports  
21 about the very serious consequence of heroin use in our  
22 district and around the country. I just gave defense  
23 counsel a very recent news story from the Detroit News  
24 from earlier this month entitled Heroin Addiction Hits  
25 Hard Across Michigan. It describes how heroin use is on

1 the rise rather dramatically around the country and in our  
2 district. I'm just going to give you some statistics on  
3 this. Quote, heroin used nationally increased 79 percent  
4 from 2007 to 2012. Heroin overdose deaths went up 45  
5 percent between 2006 and 2010. There were 158 heroin  
6 related deaths in Michigan from 2007 to 2011.

7 This is a further quote. And this is a quotation  
8 from Special Agent Rich Isensten (ph) with the Drug  
9 Enforcement Administration. Quote, people who start using  
10 opiate pain killers whether they are hydrocodone or  
11 Oxycodone products, they get hooked on those pills which  
12 are very expensive when you buy them on the street. And  
13 people who can no longer afford that addiction typically  
14 switch over and start using heroin because they buy hits  
15 of heroin for much cheaper.

16 Then an individual named Raj Metha (ph), a  
17 recovering heroin and interventionist at Serenity Therapy  
18 Center in Rochester Hills said heroin is one of the most  
19 difficult drugs to kick. Quote, 25 percent of people who  
20 try it once become addicted, he said, end quote.

21 This is -- this is a drug that, I don't think it's  
22 an overstatement to say it's destroying people's lives and  
23 it's chronic in our district right now. And she was  
24 involved in pushing this poison to our citizens. And not  
25 only was she involved, she has been doing this type of

1 thing literally for decades. And I ask the Court to  
2 please impose a sentence that is serious enough to protect  
3 the citizens of our district, to deter her from ever doing  
4 it again and to deter others. And that is why I am asking  
5 for a within guideline sentence of 210 months.

6 **THE COURT:** Thank you.

7 **MS. DWYER:** Your Honor, may I respond?

8 **THE COURT:** All right, briefly.

9 **MS. DWYER:** Yes, I will do that. I will just  
10 quickly note the points.

11 I think it's interesting that Mr. Martin says  
12 decades because if she had not started selling when she  
13 was 13 or 12 years old to save her life on the streets,  
14 then she would be dead now. So when he's talking decades  
15 of a 37 year old women, it's 25 years most which she was  
16 very young and traumatized.

17 Ms. Perry does not blame everything on everyone  
18 else. If you note, she stood up -- and you're right. She  
19 spoke about the jail staff but she didn't mention anything  
20 about her personal history and developmental years. It's  
21 very painful for her. For the Prosecutor to suggest that  
22 because it's uncorroborated that Ms. Perry has just  
23 fabricated her entire history, I think is, first of all, I  
24 know he says it was uncorroborated. He has never once  
25 asked me to present a witness. Her sister, we can put her

1 up right now if he wants corroboration about the abuse in  
2 the family. And if the Court would like to hear that  
3 because you feel it's necessary, we will put a witness up  
4 right now.

5 The fact that the PAI is a self-report test and  
6 may be imperfect this report out of Australia, we don't  
7 know what the slant of this report is. As of now, the  
8 objective PAI test is widely used in America and is  
9 considered to be the most -- one of the most valuable  
10 tools in evaluating an individual.

11 And it should be noted finally in terms of this is  
12 that, you know, we keep -- Mr. Martin wants to focus you  
13 on, well, that test, you know, and I have this report out  
14 of Australia. Doctor Wendt, you can't buy that because he  
15 relied on this test. Doctor Wendt did not rely only on a  
16 test that apparently in Australia they don't care for, but  
17 he also relied on records from four jails from the DCC and  
18 from all of these letters that she had written, his  
19 interview with Ms. Perry. He used a great fund of  
20 resources to reach his opinion. And after he issued an  
21 opinion, he continued to receive materials, additional  
22 records, and he continued to review those. And I've asked  
23 him every time, is there anything about these records that  
24 would change your opinion? And it was always, no. If  
25 anything, it strengthened his opinion.

1           The fact that the jail -- and we go through and  
2     quote all of the ways she behaved at the jail, frankly are  
3     consistent with the Wayne County in-take and the  
4     observations of Doctor Hinchman at the Wayne County Jail.  
5     Doctor Hinchman is very much aware that Ms. Perry had  
6     psychological problems and she -- the entire time at the  
7     Wayne County Jail she was prescribed medications as well  
8     as at St. Clair and Midland. The suggestion that she is a  
9     difficult inmate without the context of the fact that she  
10    had been determined to be psychologically unstable, put on  
11    the floor at the Wayne County Jail for psychological  
12    mental health offenders, Wayne County took steps. It's  
13    hard to hear and to have read some of the things that Ms.  
14    Perry did because I don't see that in her. But I do feel  
15    there are times, as Doctor Wendt indicated, where she is  
16    not in control of her own behavior. She is, as he said,  
17    high levels of irritability and these are -- and choices  
18    that are unusual for not only societal norms but for an  
19    individual.

20               **THE COURT:** I am going to ask you to complete  
21    your comments in a couple more minutes.

22               **MS. DWYER:** Okay. All right. Okay. So, the  
23    fact that he points out that she was fine for 45 days in  
24    California without the context that she was on an  
25    anti-psychotic medication is unfair to Ms. Perry. The



1 fact that we haven't seen a one week of continuity and  
2 mania by Doctor Wendt is unfair. Many examiners, almost  
3 every examiner has only the ability to go to the jail for  
4 a few hours to make an examination. And time and time  
5 again, this is sufficient to put together a conclusion.

6 There is no reason to doubt Doctor Wendt's  
7 integrity. He was cautious with each answer to this Court  
8 and I would imagine the Court found him to be honest and  
9 truthful as a clinician. The 34 encounters with law  
10 enforcement mentioned, several of them were driving  
11 misdemeanors. Most of them seemed to be possession of  
12 marijuana. Now, it doesn't change the fact that her  
13 guidelines, 11 points of 15 points in her guidelines, are  
14 driven by simple possession of either cocaine or marijuana  
15 or narcotic paraphernalia. And I ask the Court to  
16 consider that because it does overstate her career  
17 offender guidelines. Nothing further.

18 **THE COURT:** Thank you. The record in this  
19 case indicates that the defendant, Latoya Lavanda Perry,  
20 entered a plea of guilt to Count Two of the Superseding  
21 Information pursuant to a Rule 11 Plea Agreement. That  
22 proposed guilty plea was accepted by the Court. The Court  
23 at that time took the so-called Rule 11 Plea Agreement  
24 under advisement. Significantly as it appears in this  
25 case the Rule 11 Plea Agreement between the parties is as

1 follows. That they agree Ms. Perry is a career offender  
2 and that her guideline range was and is 188 to 235 months.  
3 The parties have also agreed Ms. Perry is subject to a  
4 statutorily mandated term of imprisonment of at least five  
5 years. Citing to Federal Rule of Criminal Procedure  
6 11(c)(1)(c), the parties agree that a sentence of  
7 imprisonment for Count Two shall be at least seven years.

8 And, furthermore, the Government also agrees not  
9 to seek a sentence above the top of the guideline range  
10 calculated in Part 2B of this Presentence Investigation  
11 report.

12 According to the Presentence Investigation Report  
13 and for purposes of the sentencing guidelines, Ms. Perry  
14 is responsible for the distribution of between 28.35 and  
15 112 grams of cocaine base as laboratory tests performed on  
16 two of the three purchased quantities resulted in a total  
17 of 51.43 grams of cocaine base, not including the third  
18 transaction which involved less than 2 grams of cocaine  
19 base. Ms. Perry was found to engage in these narcotic  
20 transactions while on parole and probation supervision  
21 with the Michigan Department of Corrections. This  
22 information was based on my reading of paragraph 14 on  
23 page six of the Presentence Investigation Report.

24 Let me speak to both counsel. Referring to the  
25 computations by the Probation Department which appear on

1 page seven of the Presentence Investigation Report, do  
2 counsel have any objection to the computations as set  
3 forth on page seven, paragraphs 18 through and 28?

4 **MR. MARTIN:** None from the Government.

5 **MS. DWYER:** None from the defense.

6 **THE COURT:** According to paragraph 25 of  
7 chapter four, strike that, according to paragraph 25 of  
8 the Presentence Investigation Report, the language reads  
9 as follows. Quote, the defendant was at least 18 years  
10 old at the time of the instant offense of conviction. The  
11 instant offense of conviction is a felony as either a  
12 crime of violence or a controlled substance offense. And  
13 the defendant has at least two prior felony convictions of  
14 either a crime of violence or a controlled substance  
15 offense. Therefore, the defendant is a career offender.

16 The Offense Level for a career offender is 34,  
17 citing to sentencing guideline range 4B1.1. A review of  
18 the defendant's criminal history as it appears in the  
19 Presentence Investigation Report is sadly a very lengthy  
20 one for it covers several pages in the Presentence  
21 Investigation Report, and more specifically, it's found on  
22 paragraphs 29 through 68.

23 Contrary to Ms. Perry's counsel's argument, I do  
24 not believe that the sentence structure -- I do not  
25 believe that the sentencing guideline range overstates Ms.

1 Perry's criminal history. I have said on many occasions  
2 that the imposition of a sentence upon a defendant is  
3 possibly and probably is the most difficult task that I  
4 have as a Federal Judge. The hope of this Court is that  
5 the sentence that is imposed reflects the seriousness of  
6 the offense and will promote justice as this committee  
7 expects.

8 I think it is fair to say that Ms. Perry's life  
9 has been dealt a harsh -- has been dealt harshly for there  
10 are many, many instances where she has been figuratively  
11 forced into the community to survive. Replete through her  
12 family history are unforced homicides, early age pregnancy  
13 and the like.

14 Ms. Perry was born in Detroit, Michigan on the  
15 fifth of October of 1974. Ms. Perry, while acknowledging  
16 that she did not suffer from any neglect by her mother as  
17 a child, she was physically abused in the beatings that  
18 were administered to her by her stepfather. There were as  
19 Doctor Wendt has mentioned, episodes, sadly, of sexual  
20 abuse upon her by members of her family. I shall not read  
21 into this record the recitations that appear on page 21,  
22 paragraph 69, which speak to the physical and emotional  
23 trauma that has been placed upon Ms. Perry by members of  
24 her family.

25 Ms. Perry has one full sister, one maternal

1 half-sister, and two maternal half-brothers all of whom  
2 reside in or around Detroit, Michigan. Sadly, one  
3 brother, DeMario, was murdered in 2011 it has been alleged  
4 that as a result of the altercations between her brother  
5 and other parties, that he was murdered in Detroit, a  
6 homicide that is allegedly connected with drug  
7 trafficking.

8 Ms. Perry has three children, namely, Lakia (ph),  
9 Terry, and Marcellus. Much has been made today of Ms.  
10 Perry's use of drugs, some of which has been used by her  
11 to assist her in reducing or eliminate anxieties. But,  
12 unfortunately, not all of it has been used for that  
13 purpose.

14 I have listened to Doctor Jeffrey Wendt, the  
15 psychologist who was retained by Ms. Perry to testify in  
16 this case, and he has testified and opined with regard to  
17 his findings. Doctor Wendt has submitted a multi-page  
18 report on his findings and concluded that the, quote,  
19 available information supports a conclusion that Ms. Perry  
20 suffers from a mood disturbance in the form of Bipolar I  
21 Disorder and Anxiety Disorder in the form of PTSD. Doctor  
22 Wendt further states, quote, it was my opinion that Ms.  
23 Perry meets the diagnostic criteria for a Post-Traumatic  
24 Stress Disorder and Bipolar I Disorder.

25 I've listened to Doctor Wendt's recitation and I

1 have attempted to evaluate his conclusions based on his  
2 examination. Unfortunately, I find it difficult to accept  
3 his conclusions as it relates to Ms. Perry. And thus I  
4 cannot and will not accept Doctor Wendt's conclusions as  
5 announced in this court today.

6 As noted earlier, the parties in this agreement --  
7 to this agreement have both indicated that the appropriate  
8 sentencing guideline range is 188 to 235 months based upon  
9 a total Offense Level of 31 and a Criminal History  
10 Category of 6.

11 I shall now attempt to evaluate the factors as set  
12 forth in Title 18 United States Code Section 3553(a).  
13 With regard to Section A(1) which identifies -- which has  
14 been identified as the nature and circumstances of the  
15 offense and the history and characteristics of the  
16 defendant, the record in this case indicates that Ms.  
17 Perry while awaiting sentencing for her sixth felony  
18 conviction and her 17th overall conviction relating to her  
19 involvement in the distribution of controlled substances  
20 is, as the parties have agreed, is a career offender.

21 In this case the investigating agents made several  
22 controlled purchases of cocaine base for a combined total  
23 of over 50 grams of cocaine base. Ms. Perry, like many  
24 people who come into this courtroom, has a history of  
25 family conflict, complicated by substance abuse on her

1 part as well as that of her family. She has been  
2 incarcerated previously and placed on probation as well as  
3 parole supervision. Ms. Perry has repeatedly violated  
4 community supervision while engaging in new criminal  
5 conduct and substance abuse.

6 On the first of June of 2006, Ms. Perry, while on  
7 parole, came in contact with law enforcement officers from  
8 the Dearborn, Michigan Police Department who utilized a  
9 cooperating individual to purchase narcotics from her.  
10 While Ms. Perry claimed to have completed her GED while  
11 incarcerated in Indiana, this is a fact or claim which has  
12 not been verified.

13 Unfortunately, as I look through the records in  
14 this case, looking for a bright spot in Ms. Perry's  
15 background, I found no gainful steady documented  
16 employment in the last ten years. She has, however,  
17 indicated she has supported herself by performing  
18 occasional cooking or hair styling jobs. Section 2(a) --  
19 strike that. Section A(2)(a) is designed to reflect the  
20 seriousness of the offense and to promote respect for the  
21 law and to promote just punishment for the offense. The  
22 Presentence Investigation Report reports that  
23 investigating agents made three controlled purchases of  
24 controlled base for a combined total of over 50 grams of  
25 cocaine base. This illegal conduct took place while she

1 was on parole and after having previously been found to be  
2 in violation of her parole.

3           Unfortunately, Ms. Perry has not responded  
4 positively to her probationary sentences for shorter  
5 periods of incarceration. Shorter periods of  
6 incarceration, therefore, have been unsuccessful in  
7 promoting her respect for the law.

8           Section A(2)(b), which is designed to afford  
9 adequate deterrence to criminal conduct, suggests that  
10 shorter periods of incarceration have not, sadly, deterred  
11 Ms. Perry from criminal conduct.

12           Section A(2)(c) which is designed to protect the  
13 public from further crimes of the defendant, while I  
14 believe that it is -- that a period of incarceration would  
15 serve to incapacitate Ms. Perry and, therefore, protect  
16 the public in the short term, successful rehabilitation of  
17 Ms. Perry offers a more inexpensive, shorter term answer  
18 to the threat imposed by her criminal conduct.

19           Section A(2)(d) which is designed to provide the  
20 defendant with needed educational or vocational training.  
21 She has an extensive history of substance abuse or mental  
22 health issues. I believe that she would benefit from  
23 participation in vocational training in order to increase  
24 her ability to obtain gainful employment.

25           Section A(3) which asks the Court to identify the



1 kinds of sentences that are available, a probationary  
2 sentence in this case is prohibited. While this Court may  
3 impose a fine, it is does not appear that Ms. Perry has  
4 the financial means to pay a fine. Both supervised  
5 release and imprisonment appear to be viable sentencing  
6 options in this case.

7 As I read through the Presentence Investigation  
8 Report, let me return to the point where I began. I  
9 believe that Ms. Perry has been dealt a bad hand by  
10 society. I have looked for but unfortunately have not  
11 found periods of enlightenment that would in my opinion  
12 justify granting Ms. Perry another chance. She has  
13 retained counsel who have in turn retained a psychologist  
14 to work on her behalf. But at this point, nothing seems  
15 to have worked. She has repeatedly -- Ms. Perry has  
16 repeatedly violated community supervision by engaging in  
17 new criminal conduct and substance abuse. I wish that I  
18 would look to Ms. Perry's background and find that she has  
19 completed her GED, but that has not been verified.

20 Ms. Perry has reported no gainful, steady  
21 documented employment in the last ten years. I wish that  
22 I could look to Ms. Perry to be a person to whom her  
23 children could look to. I am sure that the comments that  
24 she made to the Court today are valid. But I don't know  
25 if the comments that she made today can offset the harm

1     that she has done to herself, to her children and to the  
2     community. And thus I will keep in mind the sentencing  
3     guidelines that I have referred to earlier.

4             I wish that I could say to myself and Ms. Perry  
5     that she is serving as an inspiration to her children.  
6     They, like a lot of children in this community, need help  
7     and need, as Ms. Perry has used frequently, love. And  
8     unfortunately, Ms. Perry has not been able to import that  
9     love. She has not been a good role model, although that  
10    possibly could come in the next several months.

11            At any rate, the Court believes that it is now  
12    time for the Court to impose the sentence upon Ms. Perry  
13    at this time. Please stand, Ms. Perry. Pursuant to the  
14    Sentencing Reform Act of 1984, the Court, after  
15    considering the guidelines and the factors contained in  
16    Title 18, United States Code, Section 3553(a), commit the  
17    defendant to the custody of the Bureau of Prisons for a  
18    term of 188 months. It is further recommended that she be  
19    designated to an institution for the comprehensive drug  
20    treatment program. Upon her release from imprisonment,  
21    she shall be placed on supervised release for a term of  
22    four years. It's further ordered that Ms. Perry pay a  
23    special assessment in the sum of \$100 which will be due  
24    and payable immediately. I shall waive the imposition of  
25    a fine and the cost of incarceration and the cost of

1 supervision due to Ms. Perry's lack of financial  
2 resources. Mandatory drug testing is ordered. And while  
3 on supervision she is to abide by the standard conditions  
4 that have been previously adopted by this Court and shall  
5 comply with the following special conditions.

6 Due to Ms. Perry's past drug history, the  
7 following condition is ordered. She shall participate in  
8 a program that has been approved by the Probation  
9 Department of this district relating to substance abuse  
10 which may include testing to determine if she has used or  
11 reverted to use of drugs or alcohol. And due to Ms.  
12 Perry's personal history and characteristics of the  
13 instant offense, the following conditions are ordered.

14 She shall enroll and participate in a cognitive  
15 behavior therapy program which has been approved by the  
16 Probation Department of this district. She shall also  
17 participate in a program to obtain an General Educational  
18 Development Certificate, that is, a GED, during the term  
19 of her incarceration. If the defendant does not obtain a  
20 GED while incarcerated, she shall work toward obtaining a  
21 GED during the term of supervised release.

22 The defendant shall also be lawfully and gainfully  
23 employed on a full-time basis and shall seek such lawful  
24 gainful employment on a full-time basis. The term  
25 full-time is defined by this Court as being 40 hours per

1 week. In the event that she has part-time employment she  
2 shall devote the balance of such 40 hours per week to her  
3 efforts to obtain additional employment. And Ms. Perry  
4 shall also participate in a program that has been approved  
5 by the Probation Department of this district for mental  
6 health counseling if deemed be necessary.

7 That concludes the sentence of the Court. I speak  
8 to counsel. Are there any objections to the sentence that  
9 I just imposed?

10 **MR. MARTIN:** None from the Government, your  
11 Honor.

12 **MS. DWYER:** None from the defense, your  
13 Honor.

14 **THE COURT:** Ms. Perry, as a defendant, you  
15 have right to appeal your conviction if you believe that  
16 your guilty plea was unlawful or involuntary or if there  
17 is some other fundamental defect in these proceedings that  
18 was not waived by your guilty plea. You also have a  
19 statutory right to appeal your sentence under certain  
20 circumstances if you believe that it was rendered contrary  
21 to law.

22 Furthermore, you should be aware that any Notice  
23 of Appeal with a few exceptions must be filed within a  
24 period of ten days from the date of the entry of the  
25 judgment in your case.

1 I also note that you have entered into a Plea  
2 Agreement in which all your rights to appeal this sentence  
3 have been waived. You should be aware that such waivers  
4 are generally enforceable. However, if you believe that  
5 your waiver is not enforceable, you may present this  
6 argument to the United States Court of Appeals for the  
7 Sixth Circuit and, if appropriate, to the United States  
8 Supreme Court.

9 And finally, if you are unable to pay the cost of  
10 appeal, you may apply for leave to appeal in forma  
11 pauperis with this Court. The phrase, in forma pauperis,  
12 is a legal term which means, in affect, that you are  
13 without sufficient funds to assume and pay the cost of an  
14 appeal. Furthermore, and if you request, I will direct  
15 the Clerk of the Court to prepare and file a Notice of  
16 Appeal on your behalf.

17 Ms. Perry, do you understand what I was saying?

18 **THE DEFENDANT:** That I would file an appeal  
19 if what?

20 **THE COURT:** You have a right to appeal -- let  
21 me just read in part the notice that I gave to you.

22 As a defendant, you have a right to appeal your  
23 conviction if you believe your guilty plea was unlawful or  
24 involuntary or if there is some our fundamental defect in  
25 these proceedings that was not waived by your guilty plea.

1           You also have a statutory right to appeal your  
2 sentence under certain circumstances if you believe that  
3 it was rendered contrary to law. Furthermore, you should  
4 be aware that any Notice Of Appeal, with a few exceptions,  
5 must be filed within a period of ten days from the entry  
6 of the judgment in your case.

7           Did you hear what I said?

8           **THE DEFENDANT:** Yes, sir.

9           **THE COURT:** Do you understand it?

10          **THE DEFENDANT:** Yes.

11          **THE COURT:** Do you have any questions?

12          **THE DEFENDANT:** Yes. All the letters I had  
13 wrote you, because I had wrote them for a reason, and the  
14 things that has been done to me since I have been  
15 incarcerated -- the lying, all of the accusations, I  
16 wanted to try to file a complaint about that as well. My  
17 rights have been violated.

18          **THE COURT:** Was that contained in these  
19 things?

20          **THE DEFENDANT:** Yes.

21          **THE COURT:** Then, Ms. Dwyer, do you want --

22          **MS. DWYER:** I have received copies.

23          **THE DEFENDANT:** Is there a way because I  
24 don't how to go about doing all of this, but I did want to  
25 file a complaint.

1                   **THE COURT:** You have an excellent lawyer and  
2 I would suggest that you keep in touch with her and ask  
3 her all of the kind of legal questions that you believe  
4 are necessary.

5                   **THE DEFENDANT:** I asked her. She said she  
6 don't do the civil -- what I have been going through. I  
7 know she been working hard on my case right here and I  
8 know this is probably something separate. But this is  
9 very serious to me because of the pain and suffering that  
10 I experienced and I went through. That is the reason why  
11 I wrote the letters to you. And it took a lot of time out  
12 of my life and a lot of focusing and a lot of writing that  
13 I really didn't feel like doing but I had to do because of  
14 my rights being violated. So I would like to do something  
15 about that situation.

16                   **THE COURT:** Certainly Ms. Dwyer can, among  
17 other things, refer you to a lawyer who in her opinion and  
18 yours would be adequately equipped and knowledgeable to  
19 handle that kind of case.

20                   **THE DEFENDANT:** Okay.

21                   **THE COURT:** While Ms. Dwyer may be  
22 concentrating her interests in this particular case, she  
23 certainly can identify other lawyers in this community who  
24 are knowledgeable, who are well equipped to handle your  
25 case.

1                   **THE DEFENDANT:** Okay. I just hate this  
2 happened all at once because I know I made some mistakes,  
3 but I didn't feel I deserved the 188 months. That's a  
4 long time. And I'm not the type of person he making me  
5 out to be as far as the girls being in the hotel rooms,  
6 officers lying on their reports and me being at somebody's  
7 house, another runaway. He made it sound like I was this  
8 type of person but I am not that type of person, your  
9 Honor. And I know I couldn't argue that, but I wanted to  
10 when I first seen it in the files when Andrew Wise was my  
11 attorney all the things he put in there and said that I  
12 have done and the type person that I am. I didn't like  
13 what was said and stated. And also my little brother was  
14 murdered for drugs. He was murdered because he testified  
15 and was a witness on his girlfriend dying and I also  
16 cooperated with that when the detectives and homicide came  
17 out to see me, me cooperating. But you didn't know  
18 anything about these things. So much been going on with  
19 the case, it was too much to bring every detail to your  
20 attention. But these are the things that I wanted to  
21 bring to your attention because these are the things that  
22 are making me look bad and making me look like I am a  
23 menace to society or that I do harm kids and all of that.  
24 I don't do things like that.

25                   Also drugs found in my kid's pocket, that wasn't



1 true as well. And a lawyer that I had in Indiana he knew  
2 that the officers was lying and the Judge knew those  
3 things, too. That's why I didn't get convicted of those  
4 crimes. My daughter and my son, too, he's in college.  
5 She graduated from high school. He graduated from high  
6 school. And they was waiting on me. I do talk to them in  
7 positive ways. We have good kids. These are the two of  
8 my sister's kids.

9 **MR. MARTIN:** Your Honor, I'm sorry to  
10 interrupt. But sentence has been imposed. She has had  
11 her opportunity to address the Court. Her counsel has  
12 made arguments. We have covered this.

13 **THE DEFENDANT:** This is the type of person he  
14 is.

15 **MR. MARTIN:** I would ask the Court now that  
16 you imposed sentence to adjourn these proceedings and  
17 allow Ms. Perry, if she feels something was done  
18 improperly, to pursue her legal remedies through appeal.

19 **THE COURT:** I will do that. I recognize that  
20 this is an emotional time for her so I am trying to be  
21 sympathetic and understanding.

22 **THE DEFENDANT:** And I appreciate it. I  
23 appreciate that.

24 **THE COURT:** I have a responsibility as a  
25 Judge in this case to impose a sentence that in my opinion

1 reflects the seriousness of the offense.

2 **THE DEFENDANT:** May I say something? His  
3 spirits and the type of person he is is the type of person  
4 that looks at me negative. And these are the type of  
5 people I have been around -- lying on me and accusing me  
6 of things that I didn't do. So I understand he's doing  
7 his job.

8 **THE COURT:** I think --

9 **THE DEFENDANT:** I'm not trying to disrespect  
10 Mr. Michael or nothing like that, but when I first met him  
11 he told me if I cooperated with him --

12 **THE COURT:** Thank you, Ms. Perry. I do  
13 recommend that you speak with your counsel who is very  
14 knowledgeable and can provide you with all the necessary  
15 information. And you said, Ms. Dwyer, you said you had  
16 copies.

17 **MS. DWYER:** Yes.

18 **THE COURT:** Anything else, Ms. Dwyer? Ms.  
19 Perry?

20 **THE DEFENDANT:** You said you got all the  
21 copies of the papers?

22 **MS. DWYER:** Yes.

23 **MR. MARTIN:** Nothing further, your Honor.  
24 Thank you for your time.

25 **THE COURT:** Thank you.

